

1st Draft AMC 19.72, February 16, 2022

AMC TITLE 19 DIVISION 7 - ENVIRONMENT

Chapter 19.72, Shorelines, is amended as follows:

Article 1. Scope, Jurisdiction, and Exemptions	1
19.72.010 – Title.....	1
19.72.015 – Purpose.....	1
19.72.020 – Applicability	1
19.72.025 – Anacortes Shoreline Jurisdiction	2
19.72.030 – Uses Not Constituting “Development” and Exemptions from Substantial Development Permit Requirements	3
19.72.035 – Developments not Required to Obtain Shoreline Permits or Local Reviews	10
19.72.040 – Relationship to Other Plans and Regulations	10
19.72.045 – Moratoria Authority.....	11
Article 2. Administrative Provisions	11
19.72.210 – Conditional Use Permits.....	11
19.72.215 – Variances.....	13
19.72.220 – Nonconforming Development.....	15
19.72.225 – Nonconforming Uses	17
19.72.230 – Nonconforming Structures	17
19.72.235 – Nonconforming Lots	18
19.72.240 – Permit Filing Procedures.....	19
19.72.245 – WSDOT Project Procedures	19
Article 3. Shoreline Environments & Regulations	19
19.72.310 – Applicability	19
19.72.315 – Authority.....	20
19.72.320 – Shoreline Environment Designations	20
19.72.325 – Official Shoreline Environments Designation Map	21
19.72.330 – Shorelines of Statewide Significance.....	21
19.72.335 – Aquatic	21
19.72.340 – Natural	24
19.72.345 – Conservancy.....	26
19.72.350 – Shoreline Residential.....	29
19.72.355 – Urban	33
19.72.360 – Urban Maritime	36
19.72.365 – Shoreline Use and Modification Matrix and Development Standards	37
Article 4. Environmental Protection General Regulations	42
19.72.410 – Applicability	42
19.72.415 – Organization	43
19.72.420 – Impacts, Mitigation, Bonding.....	43
19.72.425 – Environmental Elements	45
19.72.430 – Archaeological/Historical/Cultural Impacts.....	46
19.72.435 – Critical Areas	46
19.72.440 – Shoreline Public Access	51
19.72.445 – Vegetation Conservation	55

19.72.450 – Water Quality.....	59
19.72.455 – Public Health & Safety	60
19.72.460 – View Protection/Aesthetics.....	61
Article 5. Specific Use Policies and Development Regulations	61
19.72.510 – Introduction	61
19.72.515 – Advertising and Signs.....	62
19.72.520 – Agriculture	63
19.72.525 – Aquaculture	63
19.72.530 – Commercial Development.....	65
19.72.535 – Industrial and Port Facilities.....	67
19.72.540 – Marinas	69
19.72.545 – Mining	71
19.72.550 – Parking Facilities.....	72
19.72.555 – Recreational Facilities.....	73
19.72.560 – Residential Development.....	74
19.72.565 – Scientific, Cultural and Educational Facilities.....	76
19.72.570 – Transportation Facilities.....	77
19.72.575 – Utilities (Primary)	78
Article 6. Specific Shoreline Modification Policies and Development Regulations	81
19.72.610 – Introduction -- Applicability	81
19.72.615 – General Regulations	81
19.72.620 – Boat Launches.....	81
19.72.625 – Breakwaters	83
19.72.630 – Docks, Piers and Floats.....	84
19.72.635 – Dredging and Dredge Spoil Disposal	86
19.72.640 – Fills	88
19.72.645 – Jetties and Groins	89
19.72.650 – Mooring Buoys	89
19.72.655 – Shoreline Habitat and Natural Systems Enhancement Projects.....	91
19.72.660 – Shoreline Stabilization Measures and Flood Protection Works.....	91
Article 7. Enforcement and Penalties	97
19.72.710 – Enforcement	97
19.72.715 – Penalties	98
19.72.720 – Violations – Subsequent Development and Building Permits.....	98
19.72.725 – Public and Private Redress	98
19.72.730 – Fees for Permits Obtained After Development.....	98
Article 8. Master Program – Review, Amendments and Adoption	99
19.72.810 – Master Program Review	99
19.72.815 – Amendments to Master Program	99
19.72.820 – Severability.....	99
19.72.825 – Effective Date.....	99
Article 9. Definitions.....	99
19.72.910 – General Information.....	99
19.72.915 – Definitions	100

CHAPTER 19.72 – SHORELINE MASTER PROGRAMS

Article I. ~~Scope, Jurisdiction, and Exemptions~~ General Master Program Provisions

19.72.010 – ~~Title~~ Authority & Scope

This chapter is adopted as part of the Shoreline Master Program for the City. It is adopted under the authority of Chapter 90.58 RCW and Chapter 173-26 WAC.

Chapter 19.72 AMC, in combination with the Goals and Policies of the Shoreline Element of the Anacortes Comprehensive Plan, are known and may be cited as the City of Anacortes Shoreline Master Program. The regulations within this chapter may be referred to as “this SMP” or the “this Master Program”.

19.72.015 – Purpose

~~A. The Shoreline Management Act defines a Master Program as a “comprehensive use plan for a described area.” The shoreline planning process differs from the more traditional planning process in that the emphasis is on protecting the shoreline environment through management of uses.~~

The purposes of this Master Program are:

1. To carry out the responsibilities imposed on the City of Anacortes by the Washington State Shoreline Management Act (RCW 90.58).
2. To promote uses and development of the Anacortes shoreline consistent with the Anacortes Comprehensive Plan while protecting and restoring environmental resources.
3. To promote the public health, safety, and general welfare by providing a guide and regulation for the future development of the shoreline resources of the City of Anacortes.

19.72.020 - Applicability

- A. All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this Master Program. All uses, even those not meeting the definition of development, are subject to the provisions and development regulations of this SMP, even though a permit may not be required.
- B. Any person ~~wishing proposing any new use, activity, development or structure; or any change, modification, addition or alteration to an existing use, activity, development or structure to undertake activities constituting “development”~~ within shoreline jurisdiction must apply to the Shoreline Administrator for a Shoreline Permit. ~~Based on~~ In accordance with the provisions of this Master Program, the Shoreline Administrator must determine if a Letter of Exemption, a Substantial Development Permit, a Shoreline Conditional Use Permit, and/or a Shoreline Variance is required. Substantial development must not be undertaken within the jurisdiction of the Act and this Master Program UNLESS a Substantial Development Permit has been obtained and the appeal period has been completed and any appeals have been resolved and/or the project proponent is allowed to proceed under the provisions of the Shoreline Management Act or by court order. "Substantial

development" must be defined as it is by the Act (§90.58.030 RCW) and supplementing provisions of the Washington Administrative Code (§173-27-040 WAC).

- C. Developments exempt from a Substantial Development Permit, ~~which are~~ outlined in ~~Section 2.4-E~~ [AMC 19.72.0350\(E\)](#) of this Master Program, ~~must~~ requires a Letter of Exemption. A project that qualifies as "exempt development" may also require a Shoreline Conditional Use Permit, and/or a Shoreline Variance from Master Program provisions.
 - 1. Exempt developments must not be undertaken within the jurisdiction of the Act and this Master Program UNLESS a Letter of Exemption has been obtained documenting that the development is consistent with the policies and procedures of the Act, all applicable state regulations and this Master Program.
 - 2. The request for the Letter of Exemption must be in writing, on forms required by the Shoreline Administrator, and include the information required by the Shoreline Administrator.
- D. This Master Program ~~must will apply~~ [applies](#) to every individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other entity which develops, owns, leases or administers lands, wetlands or waters that fall under the jurisdiction of the Act.
- E. The "policies" in the [Shoreline Element of the Comprehensive Plan](#) ~~is Master Program~~ provide broad guidance and direction and will be used by the City in applying the "regulations."
- F. Applicability of this Master Program to federal lands and agencies must be consistent with WAC 173-27-060 as currently exists or is hereinafter amended.

19.72.025 – Anacortes Shoreline Jurisdiction

- A. This Master Program ~~must apply~~ [applies](#) to all the lands and waters in the City of Anacortes that fall under the jurisdiction of the Shoreline Management Act. Shorelines include the waters within the City limits together with the lands underlying them and all lands extending landward 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark together with any associated wetlands. Shoreline jurisdiction includes all marine waters within the City of Anacortes and the freshwaters of Little Cranberry, Heart, and Whistle Lakes, in addition to a portion of Lake Erie, see SMP Map for details.
- B. There is hereby made a part of this Master Program a map, illustrating the shoreline designations and the approximate location of the upland extent of the shoreline jurisdiction in Anacortes. The area of shoreline jurisdiction extends waterward to the Anacortes City Limits. The actual landward extent of shoreline jurisdiction will be determined on a case-by-case basis. Where uncertainty or conflict may occur in the exact location of boundaries designating shoreline environments (pursuant to ~~Chapter 5~~ [AMC 19.72.310-365](#)), the map, designation purpose, and designation criteria must be used.
- C. Given that the Shoreline Designation Map is an integral part of this Master Program, no part of the map may be altered or revised unless a Master Program amendment has been approved by the City Council and the Washington State Department of Ecology (RCW 90.58.090).
- D. Associated wetlands that are included in the shoreline jurisdiction are those that influence or are influenced by the regulated waters. In general, a wetland is "associated" if all or a portion of the wetland falls within that area that is 200 feet from the ordinary high water mark. A wetland outside of this area may also be associated if it is in proximity to the shoreline and there is a demonstrated

influence between the wetland and the shoreline. Such influence can include hydraulic continuity, such as a surface or groundwater connection (See Chapter 173-22 WAC).

- E. Where a substantial development is proposed which would be partly within and partly without shoreline jurisdiction, a shoreline substantial development permit must be required for the entire development. The regulations of this Master Program must apply only to that part of the development which occurs within shoreline jurisdiction.

19.72.030– Relationship to Other Plans and Regulations

A. The Anacortes Shoreline Master Program consists of the following components:

1. AMC Chapter 19.72 Shoreline Master Program;
2. Shoreline Goals and Policies found in the Shoreline Element of the Comprehensive Plan;
3. Shoreline Map, Figure XXX in the Shoreline Element of the Comprehensive Plan.

B. Uses, developments and activities regulated by this Shoreline Master Program may also be subject to the provisions of the City of Anacortes Comprehensive Plan, the Washington State Environmental Policy Act (“SEPA”, Chapter 43.21C RCW and Chapter 197-11 WAC), the City of Anacortes Municipal Code, and various other provisions of local, state and federal law, as may be amended.

1. Project proponents must comply with all applicable laws prior to commencing any use, development or activity.
2. In the event a conflict occurs between the provisions of this Master Program and the laws, regulations, codes or rules of any other authority having jurisdiction within the City, the regulations that provide more protection to the shoreline area will apply, EXCEPT when constrained by federal or state law, or where specifically provided otherwise in this Master Program.
3. At the time of an initial inquiry or when a permit application is submitted, the Shoreline Administrator should inform an applicant of those regulations and statutes that may be also applicable to the proposed project to the best of the administrator's knowledge, provided, that the final responsibility for determining the applicability and complying with such other statutes and regulations must rest with the applicant.
4. Other activities that could occur along the shoreline (starting bonfires, disposing or spilling/releasing of regulated or hazardous waste products, use of pesticides, activities within wetlands) may require other permits, review, or approval not identified here.

Commented [GL1]: Added to clearly list out components of the SMP.

19.72.035~~30~~ - Uses Not Constituting “Development” and Exemptions from Substantial Development Permit Requirements

- A. Applicability to uses not constituting development. All uses within shoreline jurisdiction must be consistent with the regulations of this Master Program whether or not they require a Shoreline Substantial Development Permit. If an activity does not meet the definition of “Development”, it still may require a shoreline exemption. Activities in shoreline critical areas must request a letter of shoreline exemption or substantial development permit, regardless of whether they are exempt under provisions AMC 19.70.035 Critical Areas Review or AMC 19.70.040, Permitted Alterations. Furthermore, Shoreline Conditional Use and/or Shoreline Variance permits may still be required of development that is not substantial development. An exemption from the Substantial Development Permit requirements does not constitute an exemption from the policies and use regulations of the

Shoreline Management Act, the provisions of this Master Program, and other applicable City, state, or federal permit requirements.

WAC 173-27-140(1): *"No authorization to undertake use or development on shorelines of the state shall be granted by local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program."* ~~(Bold emphasis added.)~~

~~A.C.~~ Shoreline Exemptions. All applications for exemptions must be made on a form provided by the Shoreline Administrator and accompanying material as required. All exemptions ~~must~~ will be construed narrowly. The Shoreline Administrator may attach conditions to the approval of exempted developments, uses, and/or activities as necessary to assure consistency of the project with the Shoreline Management Act and this Master Program. A Letter of Exemption must expire one year after the date of issuance unless otherwise specified in the Letter of Exemption. The same measures used to calculate time periods for Shoreline Permits as set forth in WAC 173-27-090(3) must be used for Letters of Exemptions.

~~B.D.~~ Whenever a development falls within the exemption criteria listed in ~~2.4.AMC 19.72.030(E)~~ below and is subject to a U.S. Army Corps of Engineers Section 10 or Section 404 Permit, the Shoreline Administrator must prepare a Statement of Exemption and send a copy of this statement to the Washington Department of Ecology.

~~C.E.~~ Incremental exemptions – Exemptions must not be issued for a series of inter-dependent activities that in sum would require a permit (i.e., a project cannot be submitted in a piece-meal fashion to avoid the requirement for a substantial development permit).

~~D.F.~~ The following must not be considered substantial development for the purpose of this Master Program:

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed seven thousand forty-seven (\$7,047) dollars or as periodically adjusted per RCW 90.58.030(3)(e), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For purposes of determining whether or not a Substantial Development Permit is required, the total cost or fair market value must be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development must include the fair market value of any donated, contributed or found labor, equipment or materials;
2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition within one year after decay or partial destruction except where repair causes substantial adverse effects to the shoreline resource or environment. Replacement of a structure or development may be

authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;

3. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it must be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead, consistent with WDFW's Marine Shoreline Design Guidelines, when any structural elements are consistent with the above requirements and when the project has been approved by the Department of Fish and Wildlife;
4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment, which requires immediate action within a time too short to allow full compliance with the Act or this Master Program. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure must be removed or any permit which would have been required, absent an emergency, obtained. As a general matter, potential flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, ~~must will~~ not be considered normal or necessary farming or ranching activities. A feedlot ~~must will~~ be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but must not include land for growing crops or vegetation for livestock feeding and/or grazing, nor ~~must will~~ it include normal livestock wintering operations;
6. Construction or modification of navigational aids such as channel markers and anchor buoys;
7. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed

a height of thirty-five (35) feet above grade level and meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which must be set forth and regulated within the applicable master program. Construction authorized under this exemption must be located landward of the ordinary high water mark;

8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:
 - a. In salt waters, the fair market value of the dock does not exceed two thousand five hundred (\$2,500) dollars; or
 - b. In fresh waters the fair market value of the dock replacement does not exceed twenty two thousand five hundred (\$22,500), and are of equal or lesser square footage than the existing dock being replaced, or
 - c. New docks constructed in fresh waters do not exceed eleven thousand two hundred (\$11,200) dollars,
 - d. However, subsequent construction having a fair market value exceeding the amount above occurs within five years of completion of the prior construction, the subsequent construction ~~must~~will be considered a substantial development for the purpose of these regulations.

For purposes of this section, saltwater ~~must~~will include the tidally influenced marine and estuarine water areas of the state including the Pacific Ocean, Strait of Juan de Fuca, Strait of Georgia and Puget Sound and all bays and inlets associated with any of the above;

9. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;
10. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with the normal public use of the surface of the water;
11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on and in use since September 8, 1975, which were created, developed or utilized primarily as part of an agricultural drainage or diking system;
12. Any project with certification from the governor pursuant to Chapter 80.50 RCW;
13. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

- a. The activity does not interfere with the normal public use of the surface waters;
- b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
- c. The activity does not involve the installation of any structure, and upon completion of the activity, the vegetation and land configuration of the site are restored to conditions existing before the activity;
- d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
- e. The activity is not subject to the permit requirements of RCW 90.58.550.

14. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW;

15. Watershed restoration projects as defined herein. Local government must review the projects for consistency with the Shoreline Master Program in an expeditious manner and ~~must~~will issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration.

- a. "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:
 - 1. A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
 - 2. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
 - 3. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.
- b. "Watershed restoration plan" means a plan, developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Natural Resources, the Department of Transportation, a federally recognized Indian Tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-

creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act;

16. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:

- a. The project has been approved in writing by the Department of Fish and Wildlife;
- b. The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to Chapter 77.55 RCW; and
- c. The Shoreline Administrator has determined that the project is substantially consistent with this Master Program. The Shoreline Administrator must make such determination in a timely manner and provide it by letter to the project proponent.

Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs, as follows:

i. In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under (16)(c)(i)(I) and (2) of this subsection:

- a. A fish habitat enhancement project ~~must~~will be a project to accomplish one or more of the following tasks:
 - (a) Elimination of human-made fish passage barriers, including culvert repair and replacement;
 - (b) Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
 - (c) Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

The Washington Department of Fish and Wildlife ~~must~~will develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal ~~must~~will not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety; and

- b. A fish habitat enhancement project must be approved in one of the following ways:
 - (a) By the Washington Department of Fish and Wildlife pursuant to chapter 77.95 or 77.100 RCW;
 - (b) By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;
 - (c) By the Washington Department of Fish and Wildlife as a Washington Department of Fish and Wildlife-sponsored fish habitat enhancement or restoration project;

- (d) Through the review and approval process for the jobs for the environment program;
 - (e) Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the Natural Resource Conservation Service;
 - (f) Through a formal grant program established by the legislature or the Washington Department of Fish and Wildlife for fish habitat enhancement or restoration; and
 - (g) Through other formal review and approval processes established by the legislature.
4. Fish habitat enhancement projects meeting the criteria of (16)(c)(i) of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of (16)(c)(i) of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21 C.030 (2)(c).
 5. A hydraulic project approval permit is required for projects that meet the criteria of (16)(c)(i) of this subsection and are being reviewed and approved under this section. An applicant must use a joint aquatic resource permit application form developed by the Office of Regulatory Assistance to apply for approval under these regulations. On the same day, the applicant must provide copies of the completed application form to the Washington Department of Fish and Wildlife and to each appropriate local government. Local governments must accept the application as notice of the proposed project. The Washington Department of Fish and Wildlife ~~must~~will provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. Within forty-five days, the Washington Department of Fish and Wildlife must either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The Washington Department of Fish and Wildlife must base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the Washington Department of Fish and Wildlife determines that the review and approval process created by this section is not appropriate for the proposed project, the Washington Department of Fish and Wildlife must notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.
 6. Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may formally appeal the decision to the hydraulic appeals board pursuant to the provisions of these regulations.
 7. No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of (16)(c)(i) of this subsection and that are reviewed and approved according to the provisions of this section.

- F. Before issuing a shoreline statement of exemption, the Shoreline Administrator must review the Master Program to determine if the proposed development requires a Shoreline Conditional Use Permit and/or a Variance. It may be necessary for the Shoreline Administrator to conduct a site inspection to ensure that the proposed development meets the exemption criteria. Application information must include those items listed in WAC 173-27-180 and as contained within the Anacortes Municipal Code for Substantial Development Permits unless otherwise waived.

19.72.04035 – Developments not Required to Obtain Shoreline Permits or Local Reviews

- A. Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to projects listed under WAC 173-27-044 and -045, as amended, including, but not limited to the following:
1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.
 2. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
 3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.
 4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
 5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

19.72.040 – Relationship to Other Plans and Regulations

~~A. In addition to compliance with the provisions of the Shoreline Management Act of 1971 and the state Shoreline Master Program Guidelines, the Anacortes Shoreline Master Program must be consistent with local plans and policy documents, specifically, the Anacortes Comprehensive Plan and the City's critical areas regulations. The Master Program must be consistent with the regulations developed by the City to implement its plans, such as the zoning code and subdivision code, as well as regulations relating to building construction and safety.~~

~~— Uses, developments and activities regulated by this Shoreline Master Program may also be subject to the provisions of the City of Anacortes Comprehensive Plan, the Washington State Environmental Policy Act ("SEPA", Chapter 43.21C RCW and Chapter 197-11 WAC), the City of Anacortes Municipal Code, and various other provisions of local, state and federal law, as may be amended.~~

- ~~9. Project proponents must comply with all applicable laws prior to commencing any use, development or activity.~~

Commented [GL2]: Moved this section up.

~~10. In the event a conflict occurs between the provisions of this Master Program and the laws, regulations, codes or rules of any other authority having jurisdiction within the City, the regulations that provide more protection to the shoreline area must will apply, EXCEPT when constrained by federal or state law, or where specifically provided otherwise in this Master Program.~~

~~11. At the time of an initial inquiry or when a permit application is submitted, the Shoreline Administrator should inform an applicant of those regulations and statutes that may be also applicable to the proposed project to the best of the administrator's knowledge, provided, that the final responsibility for determining the applicability and complying with such other statutes and regulations must rest with the applicant.~~

~~12. Other activities that could occur along the shoreline (starting bonfires, disposing or spilling/releasing of regulated or hazardous waste products, use of pesticides, activities within wetlands) may require other permits, review, or approval not identified here.~~

19.72.045 – Moratoria Authority

A. The City has authority to adopt a moratorium control or other interim control on development under RCW 90.58.590.

~~E.G.~~ To adopt a moratorium control or other interim control, the City must:

1. Hold a public hearing on the moratorium or control. The public hearing must be held within sixty days of the adoption of the moratorium or control;
2. Adopt detailed findings of fact that include, but are not limited to justifications for the proposed or adopted actions and explanations of the desired and likely outcomes;
3. Notify the department of Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing.

~~F.H.~~ A moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review.

~~G.I.~~ A moratorium or control may be renewed for one or more six-month period if the City complies with the requirements in subsection (B) above before each renewal.

Commented [AC3]: Gap Analysis: Table 2-1 2009c

Article 2. Administrative Provisions

19.72.210 – Application Requirements and Procedures

A. An application for a shoreline permit must be submitted to the Department on forms provided by the Department and include applicable fees and all required information in the application submittal checklist.

B. Shoreline permit applications are reviewed per AMC 19.20. Application Procedures.

C. Multiple Shoreline Permits. When multiple shoreline permit types are required for a development, the applicant must submit all shoreline permit requests simultaneously and they must be processed simultaneously by the City.

Commented [GL4]: Relocated from AMC 18.16

D. The City will conduct permit reviews for WSDOT projects involving state highways within 90 days pursuant to RCW 47.01.485.

Commented [GL5]: Gap Analysis: Table 2-1, 2015a

19.72.215 – Substantial Development Permits

Commented [GL6]: Relocated from AMC 18.16

- A. Permit Required. A substantial development permit is required for all proposed use and development of shorelines unless the proposal is specifically exempt pursuant to this Chapter or Chapter 90.58 RCW and Chapter 173-26 WAC, as amended.
- B. Review Criteria. The applicant must demonstrate that the proposal is consistent with the following criteria:
1. All regulations of this program appropriate to the shoreline designation and the type of use or development proposed must be met.
 2. All policies of this master program appropriate to the shoreline area designation and type of use or development activity proposed must be considered and substantial compliance demonstrated.
 3. For projects located in shorelines of statewide significance, the policies of Section 5.5 must also be adhered to.

19.72.22+0 – Conditional Use Permits

A. Purpose. The purpose of a Shoreline Conditional Use Permit is to allow flexibility in varying the application of the use regulations of the Master Program in a manner consistent with the policies of RCW 90.58.020; provided that Shoreline Conditional Use Permits should also be granted in a circumstance where denial of the permit would result in a thwarting of State policy enumerated in RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City of Anacortes or by the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and this Master Program. Certain alterations of wetlands as outlined in ~~Chapter 6~~ AMC 19.72.435 of this Master Program may also require a Shoreline Conditional Use Permit.

B. Classification of Uses. Uses that are classified by ~~Table 5-1~~ AMC 19.72.365(A) as conditional uses must obtain a Conditional Use Permit.

Uses that are not classified in AMC 19.72.365(A) ~~Table 5-1~~ or in specific use and modification sections contained in ~~Chapters 8 and 9~~ AMC 19.72.510-660 may be authorized as conditional uses provided the applicant can demonstrate compliance with the criteria listed below and all other applicable policies and regulations of this Master Program.

Uses that are specifically prohibited by the Master Program may not be authorized by a Conditional Use Permit.

~~C. Shoreline Conditional Use Permit Process. Shoreline Conditional Use Permits will be processed subject to public notice, comment, and a public hearing pursuant to AMC. Conditional Use Permits must meet the approval criteria listed in Section AMC 19.72.210(D) below. The Shoreline Administrator must will be as provided in the Anacortes Municipal Code.~~

Commented [GL7]: Addressed in application requirements above.

~~D.C.~~ Criteria for Granting Shoreline Conditional Use Permits. Uses classified as conditional uses may be authorized provided that the applicant can demonstrate all of the following:

1. That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Master Program;
2. That the proposed use will not interfere with the normal public use of public shorelines;

3. That the proposed use of the site and design of the project will be compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this Master Program;
4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
5. That the public interest will suffer no substantial detrimental effect. In the granting of all Conditional Use Permits, consideration must be given to the cumulative impact of additional requests for like actions in the area. For example, if Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total impacts from the conditional uses must also remain consistent with the policies of RCW 98.58.020 and must not produce substantial adverse effects to the shoreline environment.

~~E. Filing Shoreline Conditional Use Permits with the Department of Ecology. Review of Conditional Use Permits. After the decision maker has made a final decision on a Conditional Use Permit application, the Administrator must will file the Permit with the Department of Ecology for its approval, approval with conditions, or denial. A permit data sheet in the form provided under WAC 173-27-990 must be submitted to the Department of Ecology with each Conditional Use Permit. The Department of Ecology will issue its decision on a Conditional Use Permit within thirty (30) days of filing. Filing is not complete until all the required documents have been received by the Department of Ecology.~~

Commented [GL8]: Addressed in 19.72.235 below

~~Upon receipt of the Department of Ecology's decision, the Administrator must will notify those interested persons who requested notification of such decision.~~

~~Development authorized by a Conditional Use Permit must not begin until twenty one (21) days from the date the Department of Ecology renders a decision on the Conditional Use Permit and transmits that decision to the Administrator (date of filing). The Department of Ecology must will notify the Administrator of the date of filing on an individual Conditional Use Permit. In the event of an appeal refer to the provisions of RCW 90.58.140 for when construction work may begin.~~

19.72.225-15 - Variances

- A. Purpose. The purpose of a Variance Permit is strictly limited to granting relief to specific bulk, dimensional, or performance standards set forth in the Master Program where there are extraordinary circumstances relating to the physical property or configuration of property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant, including but not limited to denying reasonable use of a property. Shoreline uses specifically listed as "prohibited" ~~must will are~~ not be eligible for consideration as a Shoreline Variance.

B. Shoreline Variance Process

- ~~1. Description. Variances are requests to adjust the applicable setback and/or bulk and dimensional requirements established by this Shoreline Master Program. Use variances are prohibited.~~
- ~~2. Process. Shoreline Variance Permits will be processed by the Administrator subject to public notice, comment, and a public hearing. The decision maker must will be as provided in the Shoreline Master Program of the Anacortes Municipal Code.~~
- ~~3. Application. An application for a Shoreline Variance must be submitted on a form provided by the Administrator and accompanying material provided as required.~~

Commented [GL9]: Addressed in 19.72.225(A) and AMC 19.72.210

- ~~4. An applicant for a Substantial Development Permit who wishes to also request a Variance must submit the Variance application and the Substantial Development Permit application simultaneously.~~

C.B. Variance Approval Criteria. The following criteria must be used in evaluating Variance applications:

1. Criteria for Granting Upland Variances. Variance Permits for development that will be located landward of the ordinary high water mark, including those areas designated by the Department of Ecology as wetlands pursuant to WAC 173-22, may be authorized provided the applicant can demonstrate all of the following:
 - a. That the strict requirements of the bulk, dimensional, or performance standards set forth in the Master Program preclude or significantly interfere with a reasonable use of the property not otherwise prohibited by the Master Program.
 - b. That the hardship described in subsection (a) above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program, and not, for example, from deed restrictions or the applicant's own actions.
 - c. That the design of the project will be compatible with other authorized uses in the area and will not cause adverse effects to adjacent properties or the shoreline environment.
 - d. That the variance requested will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - e. That the variance requested is the minimum necessary to afford relief;
 - f. That the public interest will suffer no substantial detrimental effect.
2. Criteria for Granting Variances Waterward of Ordinary High Water. Variance Permits for development that will be located either waterward of the ordinary high water mark (OHWM) or within wetlands as designated in WAC 173-22, may be authorized provided the applicant can demonstrate the following:
 - a. That the public rights of navigation and use of the shorelines will not be adversely affected by granting the Variance;
 - b. That the strict application of the bulk, dimensional or performance standards set forth in the Shoreline Master Program precludes all reasonable use of the property;
 - c. That the proposal is consistent with the criteria established under subsection 1.b. through 1.f. of this section.
3. In the granting of all Variances, consideration must be given to the cumulative impact of additional requests for like actions in the area. For example, if Variances were granted to other developments in the area where similar circumstances exist, the total of the Variances should also remain consistent with the policies of RCW 90.58 and should not produce substantial adverse effects to the shoreline environment.
4. Requests for varying the use to which a shoreline area is to be put are not requests for variances, but rather requests for conditional uses. Such requests must be evaluated using the Conditional Use Permit criteria set forth above, but are limited to uses classified as such or for uses that are not listed.

D. Filing Variance Permits with the Department of Ecology – Review of Variance Permits

Commented [GL10]: Addressed in AMC 19.72.235

- ~~1. After the decision maker has made a final decision on a Variance Permit application, the Administrator must file the Permit with the Department of Ecology for its approval, approval with conditions, or denial. A permit data sheet in the form provided by WAC 173-27-990 must be submitted to the Department of Ecology with each Variance Permit. The Department of Ecology will issue its decision on a Variance Permit within thirty (30) days of filing. Filing is not complete until all the required documents have been received by the Department of Ecology and the Attorney General.~~
- ~~2. Upon receipt of the Department of Ecology's decision, the Administrator must notify those interested persons who requested notification of such decision.~~
- ~~3. Development authorized by a Variance Permit will not begin until twenty-one (21) days from the date of filing (the date the Department of Ecology renders a decision on the Variance Permit and transmits that decision to the Administrator). The Department of Ecology must notify the Administrator of the date of filing on an individual Variance Permit. In the event of an appeal refer to the provisions of RCW 90.58.140 for when construction work may begin.~~

19.72.230 – Conditions Authorized and Bonding

Commented [GL11]: From AMC 18.16

- A. When an application does not substantially comply with criteria imposed by this Master Program and the Shoreline Management Act of 1971, the application may be denied or made subject to any terms or conditions that are deemed suitable and reasonable to affect the purpose and objectives of this Master Program.
- B. Bonds. An applicant may be required to post a bond or other acceptable financial guarantee in favor of the City of Anacortes to assure full compliance with any terms and conditions imposed on any shoreline permit. Said financial guarantee must be in an amount to reasonably assure the City that any deferred improvement will be carried out within the time stipulated.

19.72.235 – Permit Filing Procedures & Appeals

Commented [GL12]: From AMC 18.16

- A. Each permit for a substantial development, conditional use, or variance issued must contain a provision that construction pursuant to the permit must not begin and is not authorized until 21 days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130. In the event of an appeal refer to the provisions of RCW 90.58.140 for when construction work may begin.
- B. After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the City will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both Conditional Use Permits and or Variances must be mailed simultaneously with any Substantial Development Permits for the project.
 1. The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.
- C. Appeals. Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one day appeal period starts with the date of filing, which is defined below:
 1. For projects that only require a Substantial Development Permit: the date that Ecology receives the City's decision.

2. For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City.
3. For SDPs simultaneously mailed with a CUP or Variance to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City

19.72.240 – Permit Revisions

Commented [GL13]: From AMC 18.16

- A.** When an applicant proposes changes to the design, terms, or conditions of an approved permit, the applicant must submit a request for permit revision. Changes are “substantive” if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this master program, or the Act. If the administrator determines that the changes proposed are not “substantive,” he or she may waive the requirement for approval of the revisions.
- B.** When a permit revision is required, the applicant shall submit detailed plans and text describing the proposed changes. If the administrator determines that the revisions proposed are within the scope and intent of the original permit, consistent with WAC 173-27-100, the administrator may approve the revision. “Within the scope and intent of the original Permit” means all of the following:
 1. No additional over-water construction is involved, except that pier, dock, or float construction may be increased by five hundred square feet or ten percent, whichever is less;
 2. Ground area coverage and height is not increased more than ten percent;
 3. The revision does not authorize development to exceed height, setback, lot coverage, or any other requirement of the City of Anacortes Shoreline Master Program. Exceeding these standards requires approval of a variance;
 4. Additional or revised landscaping is consistent with any conditions attached to the original permit and this master program;
 5. The use authorized by original permit is not changed;
 6. No significant adverse environmental impact will be caused by the project revision; and
 7. If the sum of the proposed revision and any previously approved revisions do not meet the criteria above, an application for a new shoreline permit must be submitted. If the revision involves a conditional use or variance, which was conditioned by the Department of Ecology, the revision also must be reviewed and approved by the Department of Ecology (see WAC 173-27-100).
- C.** Notice of Revisions and Decisions. Parties of record shall be provided notice of any proposed revision as well as the final decision on any revision application.
- D.** Appeals. The City of Anacortes or the Department of Ecology decision on permit revisions may be appealed within twenty-one days of such decision, in accordance with RCW 90.58.180 and WAC 173-27-100(8).
- E.** Revised permits are effective immediately upon final decision of the administrator and/or the Department of Ecology. Construction allowed by the revised permit, that is not authorized under the original permit, is undertaken at the applicant's own risk until the expiration of the appeals deadline. Approvals of revisions shall not extend the effective date of the permit.

19.72.245~~250~~ - Nonconforming Development

Nonconforming development includes shoreline uses and structures which were lawfully constructed, established, or created prior to the effective date of the Act or the Master Program, or amendments thereto, but which do not conform to present regulations or standards of the Master Program or policies of the act. In such cases, the following standards under AMC 19.72.250~~20~~-260~~35~~ must will apply.

19.72.250~~3025~~ – Nonconforming Uses

- A. Nonconforming uses includes shoreline uses which were lawfully established prior to the effective date of the Act or the Master Program, or amendments thereto, but which do not conform to present regulations or standards of the Master Program or policies of the Act. Any nonconforming use may be continued subject to the following standards:
1. Change of ownership, tenancy, or management of a nonconforming use must will not affect its nonconforming status; provided, that the use does not significantly change or intensify;
 2. Additional development of any property on which a nonconforming use exists must require that all new uses conform to this Master Program and the Act;
 3. If a nonconforming use is converted to a conforming use, no nonconforming use may be resumed;
 4. A nonconforming use which is moved any distance must be brought into conformance with the Master Program and the Act;
 5. If a nonconforming use is discontinued for a period of 365 or more consecutive calendar days, it must will lose its nonconforming status, and the continued use of the property must be required to conform to the provisions of this Master Program and the Act.
- B. A nonconforming use which is destroyed or substantially damaged by fire or other act of nature (or accident) may be resumed provided that any structure occupied by the nonconforming use may be rebuilt to the same or smaller configuration existing immediately prior to the time the structure was destroyed.
- C. The change from one nonconforming use to another use not permitted in the shoreline environment may be authorized as a Conditional Use Permit if it is determined that the new use is no more detrimental to the property in the shoreline environment and vicinity than the existing use, the existing structures are unsuited for a use permitted in the environment, and the criteria for a Conditional Use Permit are met.

19.72.255~~350~~ - Nonconforming Structures

- A. Nonconforming structures include shoreline structures which were lawfully constructed or placed prior to the effective date of the Act or the Master Program, or amendments thereto, but which do not conform to present bulk, height, dimensional, setback, or density requirements. Nonconforming structures may continue even though the structures fail to conform to the present requirements of the environment designation in which they are located. A nonconforming structure may be maintained as follows:
1. A nonconforming structure which is destroyed by fire or other act of nature (or accident) may be rebuilt to the same or smaller configuration existing immediately prior to the time the structure was destroyed, provided that such rebuilding must be completed within two years of

destruction, unless an extension for just cause is granted, and the replacement structure does not warrant new shoreline armoring.

2. A nonconforming building or structure may be repaired and maintained as provided in and as limited by this section. The maintenance of such building or structure must include only necessary repairs and incidental alterations, which alterations, however, must not increase the nonconformity of such building or structure in any direction; provided, that necessary alterations may be made as required by other law or ordinance.
3. The Shoreline Administrator ~~must~~will determine the replacement cost of a structure.
4. A building or structure, nonconforming as to the bulk, dimensional and density requirements of this title, may be added to or enlarged if such addition or enlargement conforms to the regulations of the shoreline environment in which it is located. In such case, such addition or enlargement must be treated as a separate building or structure in determining conformity to all of the requirements of this title.
5. A structure for which a variance has been issued ~~must~~will be considered a legal nonconforming structure and the requirements of this section must apply as they apply to preexisting nonconformities.
- 5.6. State Ferry Terminal. The existing developed footprint, except for infill between the toll booth area in the lowest parking lot closest to the water, hillside walking paths, and a hillside side slope along the western side of the main terminal parking lot, and including all associated parking, at the Washington State Ferry Terminal facility. Redevelopment may occur within the existing footprint only, provided there is no net loss of ecological function and value in the adjacent buffer areas for Cannery Pond and Ship Harbor Interpretive Preserve wetlands.

Commented [AC14]: Ecology Initial Determination

19.72.260~~3540~~ – Nonconforming Lots

- A. Undeveloped lots, tracts, parcels, or sites located landward of the ordinary high water mark that were established prior to the effective date of the Act and the Master Program, but that do not conform to the present lot size or density standards, are considered nonconforming lots of record and are legally buildable subject to the following conditions:
 1. Consolidation Clause. Where two or more contiguous lots of record are under one ownership and one or more of the lots is nonconforming, they are considered to be consolidated and may not be sold or otherwise separated so as to create any resulting nonconforming lots.
 2. Exemptions. The following ~~must~~will be exempt from the nonconforming lot consolidation requirements set forth in section 19.72.250.
 - a. Any transfer, sale or conveyance of a nonconforming lot or lots for the purpose of acquisition of property to preserve environmentally sensitive areas;
 - b. Any transfer, sale or conveyance of a nonconforming lot or lots to the City of Anacortes;
 - c. Any transaction for the sale or conveyance of a nonconforming lot or lots where the parties executed a real estate purchase and sale agreement, real estate contract or other legally valid transaction document on or before the 1994 Zoning Ordinance adoption date of April 4, 1994;
 - d. Any transfer, sale or conveyance of a fully developed nonconforming lot that is contiguous with another fully developed lot under the same ownership, conforming or nonconforming; provided, that both lots were fully developed prior to April 4, 1994.

3. All new structures or additions to structures on any lot must meet all buffer, setback, height and other construction requirements of the Master Program, the Act, and must also comply with all applicable engineering design standards.
4. A lot line adjustment or restrictive covenant approved by the City must be required prior to issuance of a building permit when a nonconforming lot or lots and a conforming lot are contiguous and owned by the same person(s)/entity.
5. Notwithstanding this section, for any lots created by platting prior to 1937 (the effective date of the State Subdivision Act, RCW 58.17), the City may require compliance with RCW 58.17 and AMC for Land Divisions prior to issuing building permits for the development of lots in common ownership. The applicant must comply with the requirements of AMC Chapter 19.32 AMC, Land Divisions.

~~19.72.2450 – Permit Filing Procedures~~

Commented [GL15]: Relocated, above to 19.72.235

~~A. After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the City will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both Conditional Use Permits and or Variances must be mailed simultaneously with any Substantial Development Permits for the project.~~

- ~~1. The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.~~
- ~~2. Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one day appeal period starts with the date of filing, which is defined below:~~
 - ~~a. For projects that only require a Substantial Development Permit: the date that Ecology receives the City's decision.~~
 - ~~b. For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City.~~
 - ~~c. For SDPs simultaneously mailed with a CUP or Variance to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City.~~

~~19.72.245 – WSDOT Project Procedures~~

~~The City will conduct permit reviews for WSDOT projects on state highways within 90 days, pursuant to RCW 47.01.485.~~

Article 3. Shoreline Environments & Regulations

19.72.310 – Introduction **Applicability**

The intent of designating shoreline environments is to encourage development that will enhance the present or desired character of the shoreline. To accomplish this, segments of shoreline are given an environment designation based on existing development patterns, the biological and physical character of the shoreline, and the aspirations of the local community as expressed through the comprehensive plans and criteria of the Guidelines – Chapter 173-26 WAC.

Environment designations are categories that reflect the type of development that has, or should take place in a given area. The scheme of classifications represents a relative range of development, from high to low intensity land use, and targets types of development to specific areas. The environment classification scheme is intended to work in conjunction with local comprehensive planning and zoning.

Management policies are an integral part of the environment designations and are used for determining uses and activities that can be permitted in each environment. Specific development regulations specify how and where permitted development can take place within each shoreline environment.

Development regulations in this ~~chapter~~ [article](#) generally govern use, height limits, and setbacks.

Additional policies and development regulations are provided for specific situations, uses and developments in other ~~chapters~~ [articles](#) of this Master Program.

19.72.315 – Authority

Local governments are required, under the Washington State Shoreline Management Act of 1971 through WAC 173-26, to develop and assign a land use categorization system for shoreline areas as a basis for effective shoreline master programs. The state's Shoreline Master Program Guidelines describe the purpose of environment designations in WAC 173-26-191(1)(d):

Shoreline management must address a wide range of physical conditions and development settings along shoreline areas. Effective shoreline management requires that the shoreline master program prescribe different sets of environmental protection measures, allowable use provisions, and development regulations for each of these shoreline segments.

The method for local government to account for different shoreline conditions is to assign an environment designation to each distinct shoreline section in its jurisdiction. The environment designation assignments provide the framework for implementing shoreline policies and regulatory measures specific to the environment designation.

19.72.320 – Shoreline Environment Designations

The Anacortes classification system consists of six shoreline environments that are consistent with, and implement the Washington State Shorelines Management Act (Chapter 90.58 RCW), the Shoreline Master Program Guidelines (Chapter 173-26 WAC), and the City of Anacortes Comprehensive Plan. These environment designations have been assigned consistent with the corresponding designation criteria provided for each environment. In delineating environment designations the City of Anacortes aims to assure that existing shoreline ecological functions are protected with the proposed pattern and intensity of development. Such designations should also be consistent with policies for restoration of degraded shorelines. The six shoreline environments are:

- A. Aquatic (AMC 19.72.~~2~~[3](#)35)
- B. Natural (AMC 19.72.~~2~~[3](#)40)
- C. Conservancy (AMC 19.72.~~2~~[3](#)45)
- D. Shoreline Residential (AMC 19.72.~~2~~[3](#)50)
- E. Urban (AMC 19.72.~~2~~[3](#)55)
- F. Urban Maritime (AMC 19.72.~~2~~[3](#)60)

These shoreline environments are based on those provided in the state Shoreline Master Program Guidelines and include designation criteria and management policies that recognize the unique characteristics of Anacortes and specific areas of the shoreline. Undesignated areas within shoreline jurisdiction shall be considered "Conservancy".

19.72.325 – Official Shoreline Environments Designation Map

- A. Map Established. The location and extent of areas under the jurisdiction of this Master Program, and the boundaries of the various shoreline environments affecting the lands and waters of the City shall be as shown on the map, entitled, "Official Shoreline Environments Designation Map, City of Anacortes, Washington." The official shoreline map and all the notations, references, and amendments thereto and other information shown thereon are hereby made a part of this Master Program, just as if such information set forth on the map were fully described and set forth herein.
- B. File Copies. The official shoreline map shall be kept on file in the office of the City of Anacortes Planning Department, the Washington State Department of Ecology, and the Washington State Code reviser. Unofficial copies of the map may be prepared for administrative purposes.
- C. Map Amendments. The designation map is an integral part of this Master Program and may not be amended except upon approval by the City and the Washington State Department of Ecology, as provided under the Shoreline Management Act.
- D. Boundary Interpretation. Where uncertainty or conflict may occur in the exact location of a jurisdictional or shoreline designation boundary line, the Shoreline Administrator shall rely upon the criteria contained in RCW 90.58.030(2) and chapter 173-22 WAC pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map. Undesignated shorelines will be designated Conservancy.

19.72.330 - Shorelines of Statewide Significance

- A. Introduction. The Shoreline Management Act designates certain shoreline areas as "shorelines of statewide significance." The state puts added emphasis on these areas to ensure that they are protected for the long-term interests of the people of the state. The Shoreline Management Act states that the interests of all of the people of the state shall be paramount in the management of Shorelines of Statewide Significance.
- B. Areas Designated. Within the Anacortes shoreline jurisdiction, the waters of Puget Sound and Strait of Juan de Fuca lying seaward from the line of extreme low tide are designated as Shorelines of Statewide Significance. Padilla Bay, from March Point to William Point, is also identified as a specific estuarine area and is considered a Shoreline of Statewide Significance waterward from the ordinary high water mark and all associated shorelands.

19.72.335 – Aquatic

A. Applicability. In addition to the aquatic policies and regulations set forth below, proposals involving areas seaward of extreme low tide must comply with the policies for Shorelines of Statewide Significance (section 19.~~72.330~~^{72.320} above).

- A. Purpose. The purpose of the Aquatic designation is to protect, restore and manage the unique characteristics and resources of marine waters, including habitat, ecology, navigation and public enjoyment.
- B. Designation Criteria. The Aquatic environment designation is the area located waterward of the ordinary high-water mark. An Aquatic environment designation should be assigned to marine waters and lands waterward of the ordinary high-water mark. The Aquatic environment includes the water surface together with the underlying lands and the water column of such areas.
- C. Rationale. The Aquatic shoreline environment allows specific control over potential in-water uses and developments.

D. Development Regulations

I. Uses

- a. Prohibited, conditionally permitted, and allowed uses are generally identified in Table 5-1 19.72.365(A) in Section 5-12 AMC 19.72.365 of this Master Program. In addition:
 - i. Water-dependent uses (e.g., water-dependent recreation and moorage) that are neither prohibited by the adjoining upland environmental designation nor associated with over-water structures are allowed. (For uses involving over-water structures see "New over-water structures" and "Historic Reuse of Over-Water Structures" above and below).
 - ii. Water-oriented recreational uses must be low to moderate in intensity.
 - b. The over-water footprint shall be designed and located to reduce associated environmental impacts. Strategies may include limiting the size of the footprint to that necessary to support the structure's intended use and/or extending the structure waterward to avoid shading of critical habitat.
 - c. Where feasible, over-water facilities shall be designed to accommodate multiple uses consistent with the Aquatic designation as a means of reducing the cumulative effects of numerous structures; cost factors are to be included in the definition of feasible.
2. Reuse of Historic Over-water Structures. The Shoreline Management Act allows for protection and restoration of historical buildings and the City of Anacortes Comprehensive Plan encourages adaptive reuse of historically significant structures. Several such structures exist along the City's shoreline. These structures include traditional over-water structures (e.g., Nelbro Cannery). The following regulations apply to proposals involving a new, water-enjoyment and/or water-oriented use on an existing structure. (See also AMC 19.72.2250-245 - 2350260 and 19.72.915- Definitions).
- a. Water-enjoyment uses open to the general public may be permitted as a conditional use on historic over-water structures provided the following conditions are met:
 - i. The structure is documented on the City's local historic register as a contributing structure.
 - ii. Whenever redevelopment is proposed, the redevelopment proposal must have overall environmental benefits that are greater after the redevelopment or expansion than before, and the applicant shall document how the development will improve shoreline ecological functions. The historic overwater footprint may be altered provided that the revised footprint reduces associated environmental impacts (e.g., a reduced footprint, a design incorporating grates to allow light to penetrate, or even extension of the dock). Minor expansion of existing over-water structures may be permitted when necessary to provide public access where it is currently lacking, for environmental restoration, to preserve historic elements of the structure, or to meet building safety codes.
 - iii. The redevelopment will not result in a reduction in the amount of physical public access to and over the water that currently exists.
 - iv. Where new buildings are proposed on existing or reconstructed historic over-water structures:

Commented [GL16]: Gap Analysis: Table 5-1, #3

Commented [GL17]: Gap Analysis: Table 5-1, #3

Commented [GL18]: Gap Analysis: Table 5-1 #3

- (1) At least one third of the over-water structure, including a perimeter walkway, is dedicated for public access and enjoyment of the shoreline.
 - (2) The other two thirds must comply with the following: WAC 173-26-231(3)(b) states that water-related and water enjoyment use may be allowed as part of a mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the minimum size requirement needed to meet water-dependent use is not violated and the proposal provides improved shoreline ecological functions.
 - (3) The design must be approved by appropriate historic preservation agencies as being compatible with and reinforcing of the architectural integrity of the historic district.
 - v. All public access provisions shall be completed and available for public use upon completion of the first component of development.
 - vi. The City of Anacortes shall be a party to a binding agreement or other mechanisms will be utilized to guarantee the public access and enjoyment provisions are continuously maintained.
 - vii. Any proposed non-water-dependent commercial use must be associated with a water-dependent use and designed to provide for the public's interaction and enjoyment of the shoreline and provide ecologic restoration.
 - viii. To encourage the preservation of privately owned historic over-water structures and to encourage public access to such structures, commercial uses catering to the general public may be allowed if the structures are part of a mixed use that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives. Such uses include shops, restaurants, specialty stores, small boat rental, visitor moorage, transient lodging, etc. Limited commercial office uses may also be considered.
 - ix. Residential development (e.g., private residences, condominiums, apartments) is not a preferred use of over-water structures and shall be prohibited on any new or refurbished historical over-water structures.
 - b. Re-use of historic structures for aquaculture purposes shall must be consistent with provisions under AMC 19.72.525, Aquaculture, and WAC 173-26-241(3)(b) Aquaculture Standards, which minimizes overall visual impact to the greatest extent possible.
3. Design Elements for all over-water structures
- a. All structures that could interfere with navigation shall be marked in accordance with the Coast Guard Private Aids to Navigation.
 - b. Aquatic developments shall not be approved in narrow channels, shipping lanes, or in other areas where they are a significant hazard to navigation.
 - c. Structures placed in the Aquatic designation shall blend into the surroundings to the greatest extent feasible utilizing appropriate color(s), texture, non-reflective materials, and other design characteristics; cost factors are to be included in the definition of feasible.
 - d. All feasible methods shall be employed to minimize over-water noise generation and pollution; cost factors are to be included in the definition of feasible.
 - e. Structures shall be designed with sensitivity to ecological processes and/or function.

Commented [GL19]: Gap Analysis: Table 5-1, #3; Port of Anacortes Comment

- f. Structures placed in the Aquatic designation shall minimize interference with surface navigation, and shall be designed so as to consider impacts to public views and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
 - g. New structures and uses in the Aquatic designation shall prevent water quality degradation and alteration of natural hydrographic conditions, and shall result in no net loss of ecological functions.
4. Conditions of Approval
- a. Approval of new over-water structures shall include a condition that structures, equipment, and materials shall be removed as soon as practicable upon the cessation of a project's operation or a structure's useful life. Any structure that is damaged or breaks away in the water shall be repaired or removed by the permittee as soon as practicable. Permittees who anticipate a temporary interruption of the use of a facility or structure may be allowed to keep it in its permitted location provided they notify and receive written concurrence from the Administrator. Any structure not utilized for over one (1) year shall be removed by the owner regardless of future anticipated use unless prior permission has been granted by the City's Shoreline Administrator upon showing of good cause (e.g., environmental benefit, potential for reuse consistent with historic character, removal may result in environmental degradation).
 - b. Permittees shall be liable for all damages to public and private property resulting from their activities and development within the Aquatic designation. The City may require liability insurance beyond that required by the State if it is determined that state requirements are not adequate to cover damages.

19.72.340 - Natural

- A. Purpose. The purpose of the Natural designation is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, the Shoreline Master Program should include planning for restoration of degraded shorelines within this environment.
- B. Designation Criteria. The Natural designation includes those areas that can only accommodate very low intensity uses to maintain the ecological functions and ecosystem-wide processes. A Natural designation should be considered for shoreline areas if any of the following characteristics apply:
- 1. The shoreline is ecologically intact and therefore ecological functions must be maintained;
 - 2. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest;
 - 3. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety; or
 - 4. Such shoreline areas include largely undisturbed portions of shoreline areas such as lakes, wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats.
 - 5. Ecologically intact shorelines, as used here, means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are

free of structural shoreline modifications, structures, and intensive human uses. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development.

C. Rationale. The Natural-designated areas in the City of Anacortes remain in a relatively natural state and perform important ecological functions.

D. Development Regulations

1. Uses

a. Prohibited and allowed uses are generally identified in Table ~~5-1~~ [19.72.365\(A\)](#) in ~~Section 5-12~~ [AMC 19.72.365](#) of this Master Program. In addition:

- i. Any development that would substantially degrade ecological functions or the natural character of the shoreline (e.g., armoring of the shoreline that would interrupt habitat forming processes taking place within drift cells) is prohibited.
- ii. Upgrades of existing public facilities where no feasible alternative exists are permitted.

b. Uses that result in restoration of ecological functions and/or fish and wildlife habitat are encouraged if the use is otherwise compatible with the character of the area.

2. Height Limitations. No new or expanded building or structure is permitted except as allowed in ~~DR-5-7~~ [AMC 19.72.340.DF\(1\)](#) and Table ~~5-1~~ [AMC 19.72.365\(A\)](#), and would be subject to the height limits identified in ~~DR-5-12-B~~ [AMC 19.72.365\(B\)\(2\)](#) and Table ~~5-2~~ [19.72.365\(B\)](#).
3. Setbacks. Unless otherwise specified herein, permanent structures, storage, and hard surfaces are prohibited.
4. Design Elements. Within the Natural designation, removal of vegetation and topsoil is strictly regulated under the Vegetation Conservation provisions of ~~Section 6-5~~ [AMC 19.72.445](#).

E. Legal Description

1. Washington Park: Beginning at the intersection of Parcel #32465 or 5919 Cabana Lane and Parcel #32464, thence West and North along the shoreline 6,760 feet to the intersection of Parcel #32393 and Parcel #31552. This area is all within 200 feet of the OHWM.
2. Washington Park – North Side: Beginning at a point West of the intersection of Parcel #31552 and Parcel #31551, 919 feet, thence East along the shoreline 1,883 feet to a point 829 feet East of the intersection of Parcel #31552 and Parcel #31551. This area is all within 200 feet of the OHWM.
3. Shannon Point – West Side: Beginning at the intersection of Parcel #331554 and Parcel #31556, thence North along the shoreline 2,317 feet to the intersection of Parcel #31555 and Parcel #31547. This area is all within 200 feet of OHWM.
4. Shannon Point – Lake Shannon: Beginning at the intersection of Parcel #31547 and Parcel #31548, thence South and East along the shoreline 1,077 feet to a point 748 feet West of in the intersection of Parcel #31577 and Parcel #31576. Jurisdiction is 200-feet landward of the OHWM and included the associated wetland (Lake Shannon wetland).

5. Ship Harbor Wetland: Beginning at a point 636 West along the shoreline of the intersection of Parcel #31668 and Parcel #31667, thence East along the shoreline 1,442 feet to the intersection of Parcel #31667 and Parcel #31666. Jurisdiction is 200-feet landward of the OHWM and included the associated wetland (Ship Harbor wetland).
6. Cap Sante - SE: Beginning at the intersection of Parcel #56851 the South line of 6th Street Right of Way, thence South and West along the shoreline 2,534 feet to the intersection of Parcel #56906 and Parcel #56905. This area is all within 200 feet of the OHWM.
7. Little Cranberry Lake: The Western, Southern and Eastern shoreline of Little Cranberry Lake and entire shoreline of Big Beaver Pond a distance of 12,210 feet. Jurisdiction is 200-feet landward of the OHWM and included the associated wetland.
8. Heart Lake: The Western half of the Heart Lake shoreline a distance of 5,056 feet. This area is all within 200 feet of the OHWM.
9. Whistle Lake: The Western, Southern and Eastern shoreline of Whistle Lake a distance of 7,634 feet. This area is all within 200 feet of the OHWM.
10. Lake Erie: Beginning at the intersection of Parcel #19038 and Parcel #19044 and traveling Southeast along the shoreline of Lake Erie 1,335 feet to the intersection of Parcel #19044 and Parcel #19152. This area is all within 200 feet of the OHWM.

19.72.345 – Conservancy

- A. Purpose. The Conservancy designation is intended to protect and restore the public benefits and ecological functions of open space, floodplain, natural areas and other sensitive lands (e.g., valuable historic, educational, or scientific research areas, areas of high scenic value) where they exist within the City, while allowing a variety of compatible uses. It is the most suitable designation for shoreline areas that possess a specific resource or value that can be protected without excluding or severely restricting all other uses. It should be applied to those areas that would most benefit the public if their existing character is maintained, but which are also able to tolerate limited or carefully planned development or resource use. Permitted uses may include recreational, cultural, and historic uses provided these activities are in keeping with the goals of protection and restoration as stated herein.
- B. Designation Criteria. The Conservancy designation consists of valuable natural, cultural, or historical resources or environmental conditions that should be protected, conserved, and managed so that those resources and areas remain available for the benefit of the public. The Conservancy designation is assigned to appropriate shoreline areas, that is, those planned for development that are compatible with maintaining or restoring ecological functions of the area, and that are generally not suitable for water-dependent uses, if any of the following characteristics apply:
 1. They are suitable for water-related or water-enjoyment uses;
 2. They are open space, floodplain or other sensitive areas that should not be more intensively developed;
 3. They have potential for ecological restoration;
 4. They retain important ecological functions, even though partially developed; or
 5. They have the potential for development that is compatible with ecological restoration.
- C. Rationale. The Conservancy-designated areas in the City of Anacortes are preserved areas of open space that support outdoor recreational uses. Their lack of intense development affords the

opportunity for ecological restoration. They also include cultural and historic resources that should be preserved for continued public access.

D. Development Regulations

I. Uses

- a. Prohibited and allowed uses are generally identified in Table ~~5-1~~ [19.72.365\(A\)](#) in ~~Section 5-12~~ [AMC 19.72.365](#) of this Master Program. In addition:
 - i. Any development that would reduce the capability of vegetation to perform normal ecological functions or that would have a significant ecological impact on the area is prohibited;
 - ii. The subdivision of property to support additional residential, commercial or industrial uses that would require significant vegetation removal or shoreline modification within the Conservancy designation (i.e., subdivisions lying partially within the Conservancy designation) must ensure that uses and modifications proposed within the Conservancy designation are consistent with this section and that the overall subdivision results in no net loss of ecological functions.
 - iii. As indicated in Table ~~5-1~~ [19.72.365\(A\)](#), development of one residential dwelling unit may be allowed as a conditional use. This provision applies only to existing platted lots and only if the intensity of such use is limited as necessary to protect ecological functions.
 - iv. New roads and utility extensions may be approved as a conditional use only where no feasible alternative exists. Cost factors are to be included in the mitigation sequencing.
- b. Uses that result in restoration of ecological functions and/or enhance fish and wildlife habitat are permitted if the use is otherwise compatible with the character of the area.

2. Setbacks

- a. Unless otherwise specified herein or in Table [AMC 19.72.365\(B\)](#) ~~5-2~~, permanent structures, storage, and hard surfaces shall be set back a minimum of one hundred (100) feet from the ordinary high water mark. Setbacks are measured landward, on a horizontal plane, perpendicular to the ordinary high water mark.
 - i. To prevent denying reasonable use of a parcel in violation of constitutional or statutory requirements, a single residential dwelling may be allowed within the setback, provided that placement of structures, storage, and impervious surfaces shall be limited to the minimum necessary to allow for reasonable use of the property and impacts to wetlands and habitat functions are mitigated through the Shoreline Variance process.
 - ii. Developments consisting of public access and low-moderate intensity water-oriented recreational uses are not required to meet the one hundred (100) foot setback, but shall be approved through the Shoreline Variance process. However, where such development may be approved within the setback, the placement of structures, storage, and hard surfaces shall be limited to the minimum necessary for the successful operation of the use.
 - iii. Development of public roads, utility corridors, and parking areas that cannot be located outside of Conservancy-designated shorelines are not required to meet the one hundred (100) foot setback, but shall require a Conditional Use Permit. However, further application proposals must include an analysis of alternative locations for siting

the proposed development to ensure that all other locations outside of the setback and within the vicinity of the project site have been evaluated. Where such improvements may be approved within the setback, the placement of structures, storage, and impervious surfaces shall be limited to the minimum necessary for the successful operation of the use.

- b. Any other deviations from the required setback shall be reviewed on an individual basis through the Shoreline Variance permit process.
- c. Within the Conservancy designation, removal of vegetation and topsoil is strictly regulated under the Vegetation Conservation provisions of [Section 6.5 AMC 19.72.445](#).

E. Design Elements

- I. For all residential development within shoreline jurisdiction, the area of impervious surfaces (including parking areas, but excluding required right-of-way improvements) to be developed within shoreline jurisdiction shall be limited by the slope of the lot as specified in the following table. Preferential use of Low Impact Development (LID) in sensitive shorelines areas shall be required. The lot calculation includes the subject property within shoreline jurisdiction landward of the ordinary high water mark.

Commented [GL20]: Gap Analysis: Table 5.1, #11

- a. Table 19.72.345 – Impervious limits based upon percent slope

Slope	Impervious limit (expressed as a percentage of actual land area)
15% or less	30%
15-30	25%
Greater than 30%	20%

- b. Areas waterward of the ordinary high water mark and areas of marine bluffs, steep slopes, and wetlands shall not be included to calculate land area. For example, only the buildable remaining area landward of the marine bluff edge shall be used in the calculation. Any increases beyond these percentages of impervious surfaces shall require a Shoreline Variance.

Commented [GL21]: Gap Analysis: Table 5.1, #11

F. Legal Description

1. Washington Park: Beginning at the intersection of Parcel #32393 and Parcel #31552, thence North and East along the shoreline 383 feet to a point West of the intersection of Parcel #31552 and Parcel #31551, 919 feet. This area is all within 200 feet of the OHWM.
2. Washington Park – Boat Launch: Beginning at a point 829 feet East of the intersection of Parcel #31552 and Parcel #31551, thence North along the shoreline 1,692 feet to the intersection of Parcel #31554 and Parcel #31556. This area is all within 200 feet of the OHWM except for the north 315 feet which is the only area within 100 feet of the OHWM.
3. Shannon Point: Beginning at the intersection of the Southwest corner of Parcel #31555 and Parcel #31547, thence East along the shoreline 650 feet to a point 730 feet Northwest of the intersection of Parcel #31547 and Parcel #31548 at Lake Shannon. This area is all within 200 feet of the OHWM.
4. Guemes Channel – West of Lovrics: Beginning at a point 565 feet West of the intersection of Parcel #31575 and City Right of Way, thence North and East along the shoreline 6,740 feet to a

point at the intersection of Parcel #31732 and Parcel #31739. This area is all within 100 feet of the OHWM.

Commented [GL22]: Gap Analysis: Table 4-1 #2

5. Guemes Channel – East of Lovrics: Beginning at the intersection of Parcel #31705 and Parcel #31703, thence North and East along the shoreline 1,878 feet to the intersection of Parcel #31538 and Parcel #31532. The West 1,403 feet are within 150 feet of the OHWM. The East 475 feet are within 25 feet of the OHWM.
6. Guemes Channel – Guemes Ferry: Beginning at the intersection of Parcel #31530 and Parcel #56024, thence North and East along the shoreline 703 feet to a point 114 feet West of the intersection of Parcel #31523 and Parcel #31540. This area is all within 200 feet of the OHWM.
7. Cap Sante -SW: Beginning at the intersection of Parcel #56906 and Parcel #56905, thence West and North along the shoreline 2,280 feet to a point at the intersection of Parcel #56900 and Parcel #56897. This area is all within 200 feet of the OHWM.
8. Fidalgo Bay – North of Weaverling Spit: Beginning at the intersection of Parcel #33198 and Parcel #33210, thence South and East along the shoreline 2,880 feet to the intersection of Parcel #33202 and Parcel #33203. This area is all within 200 feet of the OHWM.
9. Fidalgo Bay: Beginning at the intersection of Parcel #33440 and Parcel #33439, thence Southeast and Northwest along the shoreline 2,878 feet to a point at the intersection of Parcel #33445 and Parcel #112900. This area is all within 200 feet of the OHWM except for the West 462 feet that are within 150 feet of the OHWM.
10. Fidalgo Bay: Beginning at the intersection of Parcel #33271 and Parcel #33268 thence South, East and North to the City limits line on March Point along the shoreline 15,800 feet. This area is all within 200 feet of the OHWM.
11. Padilla Bay: Beginning at a point 454 feet West of the intersection of Parcel #19709 and Parcel #19707, thence Southeast along the shoreline 2,000 feet to a point at the intersection of Parcel #19707 and the Anacortes City Limits. Jurisdiction is 200-feet landward of the OHWM and included the associated wetlands in Parcel #19676.
12. Little Cranberry Lake: The Northern shoreline of Little Cranberry Lake a distance of 1,548 feet. This area is all within 200 feet of the OHWM.
13. Heart Lake: The Eastern half of the Heart Lake shoreline a distance of 4,295 feet. This area is all within 200 feet of the OHWM.
14. Whistle Lake: The Northern shoreline of Whistle Lake a shoreline distance of 782 feet. This area is all within 200 feet of the OHWM.
15. Lake Erie: The southernmost point of City Limits, extending 200 feet east from the Lake Erie OHWM to capture portions of Parcels #19152 (5022 Lake Erie Way Anacortes, WA 98221) and #19152.

Commented [GL23]: Gap Analysis: Table 4-1 #4

19.72.350 – Shoreline Residential

- A. Purpose. The purpose of the Shoreline Residential designation is to accommodate residential development and associated structures that are consistent with the Shoreline Management Act, this Master Program, and the protection and restoration of ecological functions. An additional purpose is to provide appropriate public access and recreational uses.

- B. Designation Criteria. The Shoreline Residential designation is appropriate for shoreline areas that are planned and platted for residential development. Appropriate infrastructure either exists within these areas or is planned to be extended for the purpose of serving residential development.
- C. Rationale. The Shoreline Residential-designated areas are privately owned lands zoned for residential development and have become established as residential neighborhoods. The Shoreline Residential designation is an area of low- and moderate-intensity residential land that maintains significant natural features. Infrastructure either exists or is planned to extend to these areas for the purpose of serving residential development.
- D. Development Regulations
1. Uses
 - a. Prohibited and allowed uses are generally identified in Table ~~5-1~~[19.72.365\(A\)](#) in ~~Section 5-12~~[AMC 19.72.365](#) of this Master Program.
 - b. Limited non-residential uses, such as community clubhouse, day cares, home occupation businesses, churches, and bed and breakfasts, may be allowed, provided they are consistent with the residential character and the underlying zoning.
 2. Height Limitations
 - a. New or expanded structures shall be limited to maximum heights as specified in Table [19.72.365\(B\)](#)~~5-2~~, except the height limit shall not apply to television antennas, chimneys, flagpoles, public utilities, private residential wind-powered generators, and similar appurtenances.
 - b. Fill shall not be used as a means to increase the allowable height. See Table ~~5-2~~[19.72.365\(B\)](#) and ~~Chapter 12~~[AMC 19.72.915](#) for height definition.
 3. Setbacks
 - a. Shoreline Setback - Permanent buildings and structures including common appurtenant structures such as garages and decks over 30 inches above grade shall be set back a minimum of sixty (60) feet from the ordinary high water mark, except for the shoreline along Burrows Bay between the east extent of Croatian Way and Skyline Way which shall have a minimum setback of twenty-five (25) feet from the ordinary high water mark. Patios, decks under 30 inches, or other structural or impervious surfaces, shall be limited to no more than 150 square feet and intrude no more than 10 feet into the shoreline setback. Pathways providing access to the shoreline, not including trams, are allowed but shall utilize pervious materials. Setbacks are measured landward, on a horizontal plane, perpendicular to the ordinary high water mark. Setback requirements shall apply to non-water-dependent structures and uses and do not apply to piers, ramps or docks.
 - b. Exceptions from the Shoreline Residential setback may be granted through an administrative approval. Any restrictions or conditions which are tied to the parcel through this exception process shall be recorded on a revised Notice on Title. Such exceptions include:
 - i. For areas with a setback of 60 feet, reductions of up to twenty-five (25) percent of the standard setback, may be approved if the applicant demonstrates that either:
 - (1) enhancing the setback (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) will result

in a reduced setback that functions at a higher level than the existing standard setback; or

- (2) conditions (existing uses or developments) exist within the site's shoreline setback, which substantially prevent or impair delivery of most riparian functions.
- ii. If the applicant can demonstrate that a single-family residence or otherwise allowed non water-oriented use cannot be accommodated or accomplished outside of the standard or standard reduced setback, a reduction in the setback width not exceeding fifty (50) percent may be approved administratively. Adequate space for a single-family residence and associated yard is considered to be available when the buildable lot depth is eighty (80) feet or greater as measured from the ordinary high water mark. The approved reduction may be no more than that necessary to accommodate the allowed use. These modifications of standards may be approved with either a Shoreline Substantial Development Permit or, if applicable, a shoreline exemption, where the modification is consistent with underlying zoning regulations and are not anticipated to have adverse impacts on adjacent properties. In such cases, for either single family residences or non-water oriented uses, the City may allow a decrease in front yard setback or side yard setback standards if those actions will reduce or eliminate the need for the shoreline setback reduction. However, any deviation in front yard setback or side yard setback beyond already specified limits may require a zoning variance.
- iii. The applicant must submit a mitigation plan that addresses the specific habitat components and/or ecological functions that may be lost as a result of either reduction mechanism. Such a mitigation plan shall document how the proposed mitigation accounts for no net loss of ecological functions. Mitigation plan elements, including monitoring and maintenance, shall be included in the plan consistent with mitigation plan requirements outlined in the City of Anacortes shoreline-specific critical areas regulations (see SMP ~~Chapter 6~~ [AMC 19.72.435](#)). Plan elements may include one or more of the following:
 - (1) Restoration of the reduced setback as needed with native vegetation, including trees and shrubs found in undisturbed riparian areas of Fidalgo Island.
 - (2) Removal of all or portions of existing shoreline armoring located at, below, or within 5 feet landward of the ordinary high water mark and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, aquatic and upland habitat features, and beach/substrate composition as appropriate.
 - (3) Opening of previously piped on-site watercourse to allow potential rearing opportunities for anadromous fish. Opened watercourses must be provided with a native planted setback at least ten (10) feet wide on either side of the stream, and must not encumber adjacent properties without express written permission of the adjacent property owner.
 - (4) Installation of biofiltration/infiltration mechanisms, such as bioswales, created and/or enhanced wetlands, or ponds, that exceed standard stormwater requirements.
 - (5) Installation of pervious materials for driveway, parking or road construction.
- iv. Where a residential setback was established as part of the approval of a residential subdivision, the established subdivision setback shall take precedence except when such setback has expired or no longer exists per RCW 58.17.170.

- v. For developed single-family residential waterfront lots, beach stairs may be allowed where they do not interfere with other areas of public access, do not extend waterward of the ordinary high water mark, and do not impair visual access of the shoreline from neighboring lots.
 - c. Deviations from the required setback beyond the allowed exceptions described above shall be reviewed on an individual basis. A request for such a deviation shall be considered a variance following the procedures established under ~~Section 3.2~~ [AMC 19.72.220+5](#) and will be subject to the variance review criteria established under ~~Section 3.2~~ [AMC 19.72.220+5.C](#) of this Master Program.
 - d. Developments consisting of water-dependent scientific, historical, cultural, educational research uses, public access, low-moderate intensity water-oriented recreation open to the general public and ecological restoration are not required to meet the setback requirement. However, where such development may be approved within the setback, the placement of structures, storage, and impervious surfaces shall be limited to the minimum necessary for the successful operation of the use.
 - e. Removal of vegetation and topsoil is strictly regulated under ~~Section 6.5~~ [AMC 19.72.445](#), Vegetation Conservation.
4. Design Elements
- a. For all residential development within shoreline jurisdiction, the area of impervious surfaces (including parking areas, but excluding required right-of-way improvements) to be developed within shoreline jurisdiction shall be limited by the slope of the lot as specified in the following table. The lot calculation includes the subject property within shoreline jurisdiction landward of the ordinary high water mark.

Table ~~0~~ [19.72.350-3\(A\)](#) - Impervious limits based upon percent slope

Slope	Impervious limit (expressed as a percentage of actual land area)
15% or less	30%
15-30	25%
Greater than 30%	20%

Commented [GL24]: Gap Analysis: Table 5-1, #11

- i. Areas waterward of the ordinary high water mark and areas of marine bluffs, steep slopes, and wetlands shall not be included to calculate land area. For example, only the ~~buildable~~ remaining area landward of the marine bluff edge shall be used in the calculation. A Shoreline Variance is required for reduction of dimensional standards.
- b. Where riparian vegetation does not exist or is degraded, a minimum of fifteen percent (15%) of the total lot area shall be retained or replanted in native vegetation. Areas to be retained or replanted shall include the largest contiguous, and/or most waterward blocks of native vegetation located on site. If few or no areas of native vegetation remain, the vegetation retention area shall be replanted with species native to shoreline areas of Fidalgo Island. For additions and expansions of existing developments, replanting shall be commensurate with the degree of impact resulting from the new development. For lots which border the OHWM, all revegetation shall take place within the shoreline setback in order to provide the greatest benefit.

Commented [GL25]: Gap Analysis: Table 5-1, #11

G. Accessory Uses Supporting Existing Overwater Structures

Commented [AC26]: Ecology Initial Determination

- I. Guemes Channel, between H Avenue and B Avenue, contains two existing overwater structures within the adjacent Aquatic designation. Accessory uses necessary to support water-oriented use of these existing over-water structures may be located in the adjacent Shoreline Residential environment, subject to the following standards, in addition to conformance with all other applicable SMP goals, policies and regulations:

The accessory use and associated improvements must:

- a. Be demonstrably subordinate and incidental to the permitted primary water-oriented use of the over-water structure and functionally support its activity;
- b. Be located on land under the same ownership or leasehold as the over-water structure the accessory use is supporting;
- c. Conform to the applicable standards in AMC 19.72.365 Table(B) Shoreline Development Standards Matrix, EXCEPT that accessory uses are not subject to maximum impervious surface limits, and the minimum setback for non-water-dependent accessory uses is 25';
- d. For accessory parking, the applicant must provide a public access easement in a form acceptable to the Shoreline Administrator;
- e. The shoreline permit process for the accessory use must follow that as shown in AMC 19.72.365 Table(A) Shoreline Use and Modification Matrix for the primary water-dependent or water-oriented use within the Aquatic shoreline environment designation.

G.H. Legal Description

1. Skyline Area: Beginning at the city limits line along Burrows Bay, and inside Flounder Bay a length of 9,860 feet along the shoreline to a point at the intersection of Parcel #60074 or 5801 Kingsway and Parcel #60075 or 1901 Skyline Way. This area is all within 200 feet of the OHWM.
2. Washington Court: Beginning at the intersection of Parcel #31554 and Parcel # 31557, thence North 315 feet to the intersection of Parcel #31554 and Parcel #31556. This area is 100 feet inland of the OHWM and 100 feet deep.
3. Guemes Channel – West of Lovrics: Beginning at a point 525 feet West of the intersection of Parcel #101413 and City Right of Way, thence North and East 7,210 feet to a point 510 feet East of the intersection of Parcel #31732 and Parcel #31739. This area is 100 feet inland of the OHWM and 100 feet deep.
4. Guemes Channel – East of Lovrics: Beginning at the intersection of Parcel #31705 and Parcel #31703, thence North and East 4,602 feet to the intersection of Parcel #31523 and Parcel #31540. The West 1,413 feet are 150 feet off the OHWM and 50 feet deep. The East 562 feet are 50 feet off the OHWM and 150 feet deep. The East 2,627 feet is all within 200 feet of the OHWM.
5. Cap Sante – NE: Beginning at the intersection of Parcel #32871 and the East line of the “U” Avenue Right of Way, thence East and South along the shoreline 3,100 feet to the intersection of Parcel #56851 and the South line of the 6th Street Right of Way. This area is all within 200 feet of the OHWM.

Commented [GL27]: Gap Analysis: Table 4-1, #3

Commented [GL28]: Gap Analysis: Table 5-1, #3, Response to Public Comment

19.72.355 – Urban

- A. Purpose. The purpose of the Urban designation is to provide for commercial, industrial, and recreational uses; residential uses in some locations; and public land uses while seeking opportunities for protection and restoration of ecological functions.
- B. Designation Criteria. The Urban designation is appropriate for areas that currently support or are planned for general commercial or industrial development. The Urban designation is located landward of the ordinary high water mark.
- C. Rationale. The Urban-designated areas are zoned for industrial and commercial uses. Existing and planned uses in the Urban designation represent a variety of water-oriented and non-water-oriented uses. In addition, current zoning allows for retail businesses, professional offices, hotels, restaurants, personal service shops, recreational uses, marinas, and residential uses. The state ferry terminal at Ship Harbor is included in this designation.
- D. Development Regulations
 - I. Uses
 - a. Prohibited and allowed uses are generally identified in Table ~~5-1~~[19.72.365\(A\)](#) in ~~Section 5-12~~[AMC 19.72.365](#) of this Master Program. In addition:
 - i. Mini-storage is prohibited.
 - ii. Radio and television towers as a primary use are prohibited.
 - b. Development that can be classified as a water-dependent, water-related, or water-enjoyment use shall be permitted.
 - c. A limited range of non-water-oriented development, open to the general public, while not preferred, may also be authorized as a conditional use provided said development:
 - i. Conforms with the criteria set forth for conditional uses in ~~Section 3-1~~[AMC 19.72.2+20](#);
 - ii. Is designed and located in manner that capitalizes on shoreline views and is compatible with water-oriented uses;
 - iii. Makes provisions for the public access and enjoyment consistent with this Master Program; and
 - iv. Is part of a mixed-use development or the parcel is separated from the water. (See WAC 173-26-211(5)(d)(ii)(A)).
 - d. Multi-family residential or transient accommodation (hotel and motel) uses may be permitted provided they meet the requirements for non-water-oriented uses listed in subsections ~~(a)-(iv)~~ of ~~DR 5-10-3~~[AMC 19.72.355\(c\)](#) and further that said use meets the following terms:
 - i. Public access and enjoyment shall be the primary design consideration. Private and public space shall be appropriately separated through sensitive design.
 - ii. The development shall be a mixed use project.
 - iii. A maximum of 50% of total floor area may be devoted to multifamily residential and/or transient accommodations; provided that up to an additional 25% of total floor area may be devoted to multifamily residential and/or transient accommodations upon obtaining a waiver under section ~~vi.f~~ below.

- iv. The floor area not devoted to multifamily residential and/or transient accommodations shall be used as follows:
 - (1) No less than 25% of the total floor area of the development shall be devoted to water-oriented uses unless a Conditional Use Permit is obtained under section (vi) below.
 - (2) The remaining floor area shall be devoted to non-water-oriented uses accessible to the general public (e.g., retail, personal services, recreational and cultural uses) excluding transient accommodations.
- v. Ground floor residential uses must meet zoning code compliance under AMC 19.61. Block Frontage Standards may only be placed above a commercial ground floor.
- vi. Restoration/Public Access Incentive – the increase in non-water-oriented use in (iii) and the minimum water-oriented use in (iv)(1) of this section may be applied through a Conditional Use Permit when the proposal provides restoration of ecological functions, habitat enhancement, and/or provision of public access improvements (e.g., parks, esplanades; etc.), that constitute a significant improvement.

The following criteria shall apply:

 - (1) The proposal will provide 'significant improvements' consistent with this Master Program without additional probable significant adverse impacts to public health, safety or the environment, that cannot be adequately mitigated.
 - (2) Items that may constitute a 'significant improvement' include; but, are not limited to, (1) preservation of critical shoreline habitat, (2) restoration of impaired ecological functions, (3) dedication to the City of land for a public park or open space, (4) preservation of scenic resources, (5) enhanced public access amenities, and (6) educational opportunities which broaden the public's understanding of the maritime world.
- vii. Residential and transient accommodation uses must not intrude on the public's use and enjoyment of the shoreline:
- viii. designs that step back from the public area are encouraged (e.g., upper floors step back from the public area).
- e. Additional allowed, conditional, and prohibited uses for the Urban designation are listed in Table 5-1 19.72.280(A).
- 2. Height Limitations. New or expanded structures shall be limited to maximum heights as specified in Table 19.72.280(B) 5-2.
- 3. Setbacks.
 - a. New, permanent buildings and structures shall be set back a minimum of twenty-five (25) feet from the ordinary high water mark. Setbacks are measured landward, on a horizontal plane, perpendicular to the shoreline. Shoreline setback requirements shall apply to non-water-dependent structures and uses.
 - b. Developments consisting of water-dependent scientific, historical, industrial, cultural, or educational research uses, public access, water-oriented recreation and ecological restoration are not required to meet the shoreline setback requirements, nor are piers, ramps or docks.

Commented [GL29]: Gap Analysis: Table 4-1, #6

E. Legal Description

1. Skyline Area: Beginning at the intersection of Parcel #60074 or 5801 Kingsway and Parcel #60075 or 1901 Skyline Way, thence following the shoreline around Flounder Bay and Burrows Strait a length of 6,462 feet to the intersection of Parcel #32465 or 5919 Cabana Lane and Parcel #32464. This area is all within 200 feet of the OHWM.
2. Ship Harbor: Beginning at the intersection of Parcel #31667 and Parcel #31666, thence East along the shoreline of Guemes Channel 554 feet to a point 803 feet West of the intersection of Parcel #31666 and Parcel #31669. This area is all within 200 feet of the OHWM.
3. Guemes Channel – Lovric: Beginning at the intersection of Parcel #31732 and Parcel #31739, thence East along the shoreline of Guemes Channel to the intersection of Parcel #31705 and Parcel #31703. This area is all within 200 feet of the OHWM except for the West 500 feet which is only 100 feet off the OHWM.
4. Cap Sante Basin – Fidalgo Bay - South to 34th St.: Beginning at the intersection of Parcel #56900 and Parcel #56897, thence North, West, and South along the shoreline 11,733 feet to a point at the intersection of Parcel #119601 and Parcel #33196. This area is all within 200 feet of the OHWM.
5. Fidalgo Bay - Weaverling Spit – North Side: Beginning at the intersection of Parcel #33202 and Parcel #33203, thence South and East along the shoreline 1,770 feet to a point at the intersection of Parcel #33440 and Parcel #33439. This area is all within 200 feet of the OHWM.
6. Fidalgo Bay - Weaverling Spit – South Side: Beginning at the intersection of Parcel #33445 and Parcel #112900, thence West and South along the shoreline 670 feet to a point at the intersection of Parcel #33271 and Parcel #33268. This area is all within 200 feet of the OHWM except for the East 462 feet that are off the OHWM 150 feet and 50 feet deep.
7. Padilla Bay – South March's Point Road Beginning at the intersection of Parcel #19713 and March's Point Road, thence East and North approximately 1,750 feet along the shoreline to a point at the intersection of Parcel #19676 and #19761.

Commented [GL30]: Removed "Ferry Terminal" description. Gap Analysis: Table 4-1, #2

Commented [GL31]: Removed "Guemes Channel B-H Ave. description. Gap Analysis: Table 5-1, #3, Response to public comment

Commented [GL32]: Gap Analysis: Table 2-1 2007b

19.72.360 – Urban Maritime

- A. Purpose. The purpose of the Urban Maritime designation is to preserve a variety of water-dependent, water-oriented, and water-related public, commercial, and industrial uses such as those associated with the Port of Anacortes.
- B. Designation Criteria. The Urban Maritime designation is appropriate for high intensity urban uses that are currently zoned Manufacturing/Shipping.
- C. Development Regulations
 1. Prohibited and allowed uses are generally identified in Table 5-1 19.72.365(A) in Section 5-12 AMC 19.72.365 of this Master Program.
 2. Where applicable, require new development to include environmental cleanup (e.g. removal of contaminated soils) and restoration of the shoreline in compliance with state and federal laws.
 3. No net loss of shoreline ecological function ~~must~~will result from new development.
 4. Any impacts to ecological functions must be fully mitigated with the mitigation sequencing defined in Chapter 12 AMC 19.72.915. If mitigation is required for water-dependent use, off-site mitigation in conjunction with appropriate on-site mitigation would be most appropriate.

5. Redevelopment and renewal of substandard, degraded, or obsolete urban shoreline areas must be encouraged in order to make maximum use of the available shoreline resources and to accommodate future water-oriented uses.
6. Residential or transient accommodation uses are prohibited in the Urban Maritime designation.
7. Ensure that, where applicable, improvements are reviewed for consistency with the Design Standards codified in the zoning code.
8. Height Limitations. New or expanded structures ~~must~~will be limited to maximum heights as specified in ~~Table 5.2~~ 19.72.365(B).
9. Setbacks
 - a. New, permanent buildings and structures must be set back a minimum of twenty-five (25) feet from the ordinary high water mark. Setbacks are measured landward, on a horizontal plane, perpendicular to the shoreline. Setback requirements ~~must~~will apply to non-water-dependent structures and uses.
 - b. Developments consisting of water-dependent scientific, historical, industrial, commercial, cultural, or educational research uses, public access, water-oriented recreation and ecological restoration are not required to meet the setback requirements, nor are piers, ramps or docks.

D. Legal Description

1. Guemes Channel – Guemes Ferry East to “U” Ave.: Beginning at a point 114 feet West of the intersection of Parcel #31523 and Parcel #31540, thence East along the shoreline of Guemes Channel 6,493 feet to the intersection of Parcel #32871 and the East line of the “U” Avenue Right of Way. This area is all within 200 feet of the OHWM.
2. Fidalgo Bay – 34th to Fidalgo Bay Rd.: Beginning at the intersection of Parcel #119601 and Parcel #33196, thence South along the shoreline 1,097 feet to a point at the intersection of Parcel #33198 and Parcel #33210. This area is all within 200 feet of the OHWM.

19.72.365 – Shoreline Use and Modification Matrix and Development Standards

A. Shoreline Uses and Modifications Matrix

1. Table 19.72.365(A) ~~5-1~~ identifies new land uses and shoreline modifications in the shoreline jurisdiction and the type of use approval required. Additional detail that supplements Table ~~5-1~~ 19.72.280(A) may be found in ~~Chapters 5~~ AMC 19.72.310-365, ~~8~~ AMC 19.72.510-575, and AMC 19.72.610-660. Uses, developments or modifications not listed in Table 19.72.365(A) ~~Table 5-1~~ or otherwise permitted in the applicable sections of this Master Program ~~must~~will be considered ‘unclassified’ and ~~must~~will be processed as Conditional Uses. Accessory uses ~~must~~will be subject to the same shoreline permit process as its primary use, unless explicitly stated otherwise in Table 19.72.365(A) ~~Table 5-1~~ or in AMC 19.72.510-575, and AMC 19.72.610-660 ~~Chapters 8 or 9~~. Where there is a conflict between the chart and the written provisions in this SMP, the most protective of shoreline resources ~~must~~will apply.
2. An accessory use ~~must~~will not be established on a property independent of its primary use.
3. Permitted uses and modifications are only allowed in shoreline jurisdiction where the underlying zoning allows for it and subject to the policies and regulations of this SMP.

4. Uses and modifications identified as “Permitted” require either a Substantial Development Permit or may be exempt from the requirement to obtain a Substantial Development Permit, as outlined in [Section 2.4 AMC 19.72.0340](#). Exempted uses and modifications, however, are not exempt from the Act or this SMP, and must be consistent with the applicable policies and provisions.
5. If any part of a proposed development is not eligible for Shoreline Exemption, then a Substantial Development Permit is required for the entire proposed development project.
6. In all cases, the permit processes identified below are for new uses and modifications and do not contradict the exemptions which allow for such actions as normal repair and maintenance or emergency measures. For example, while a new road may be prohibited in the Natural environment, repair of existing roads is allowed.
7. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Conditional Use Permit even though the development or use does not require a Substantial Development Permit.
8. When a development or use is proposed that does not comply with the shoreline setback, lot frontage, side yard setback, and other dimensional performance standards of this SMP not otherwise allowed by administrative reduction, such development or use can only be authorized by approval of a Shoreline Variance.
9. Except as otherwise stated, the comprehensive plan, zoning regulations, subdivision regulations, health regulations, and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of this SMP conflict with provisions of other responsible local government regulations, the more protective of shoreline resources ~~must~~will prevail.
10. Where a use or modification may occur in the Aquatic environment as indicated in Table [5-1 19.72.365\(A\)](#) and in the corresponding regulations for that use, it ~~must~~will also be subject to any more restrictive permit processes or prohibitions on that use or modification as indicated for the adjacent shoreland environment, except for the re-use of historic overwater structures.

Commented [GL33]: Gap Analysis: Table 5-1 #3

Table [19.72.365\(A\)](#) Shoreline Use and Modification Matrix

The chart is coded according to the following legend.						
P = Permitted , when meeting requirements for that use and shoreline area, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements C = Conditional Use , when approved by the City and Department of Ecology X = Prohibited ; the use is not eligible for a Variance or Conditional Use Permit						
	Natural	Conservancy	Shoreline Residential	Urban	Urban Maritime	Aquatic
Shoreline Uses						
Advertising and Signs	X	P	P	P	P	P
Agriculture	X	X	X ¹	X ¹	X	X
Aquaculture						
Non-commercial aquaculture for recovery of a native population	C	C	P	P	P	P
All other aquaculture	X	X	X	C	C	X ⁵
Commercial Development						
Water-dependent	X	X	P ³	P	P	C
Water-related	X	X	P ³	P	P	C

Commented [AC34]: Gap Analysis: Table 5-1 #3

<p>The chart is coded according to the following legend.</p> <p>P = Permitted, when meeting requirements for that use and shoreline area, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements</p> <p>C = Conditional Use, when approved by the City and Department of Ecology</p> <p>X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit</p>						
	Natural	Conservancy	Shoreline Residential	Urban	Urban Maritime	Aquatic
Water-enjoyment	X	X	P ³	P	P	C
Non-water-oriented	X	X	P ³	C	C	X
Forest Practices ⁶	X	C	X	X	X	X
Industrial and Port Facilities						
Water-dependent	X	X	X	P	P	P
Water-related	X	X	X	P	P	C
Non-water-oriented	X	X	X	C	C	X
Marinas	X	X	X	P	P	P
Mining	X	X	X	X	X	X
Parking Facilities						
Primary	X	X	X	P	P	X
Accessory	X	C	P ⁷	P	P	X
Recreational Facilities						
Water-dependent (e.g., public access piers)	X	P	P	P	P	P
Water-related	X	P	P	P	P	P
Water-enjoyment (e.g., pedestrian trails)	C	P	P	P	P	P
Nonwater-oriented	X	X	C	C	C	X
Residential Development						
Single-family	X	C	P	P	X	X
Multi-family	X	X	P	P	X	X
Scientific, Cultural and Educational Facilities						
Transportation Facilities						
Water-dependent (e.g., ferry terminal)	X	X	X	P	P	P
Water-related (e.g., ferry loading area)	X	X	X	P	P	P
Roads and associated facilities (e.g., sidewalks, bike lanes, storm drainage, etc.)	X	C	P	P	P	X
Other non-water-oriented	X	X	X	X	X	X
Utilities (Primary)						
Major	X	C	P	P	P	C
Minor	X	P	P	P	P	C
Shoreline Modifications						
Boat Launches						
Public	X	C	C	P	P	P
Private	X	X	C	P	P	P
Breakwaters ²	X	C	C	C	C	C
Docks, Piers and Floats						
Public	X	C	P	P	P	P
Private	X	X	P ⁴	P	P	P
Dredging and Dredge Spoil Disposal						
Dredging or in-water disposal associated with restoration	P	P	P	P	P	P
Other dredging	X	C	P	P	P	P
Other in-water disposal	X	X	X	X	X	X

Commented [AC35]: Gap Analysis: Table 2-1 2017e

<p>The chart is coded according to the following legend.</p> <p>P = Permitted, when meeting requirements for that use and shoreline area, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements</p> <p>C = Conditional Use, when approved by the City and Department of Ecology</p> <p>X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit</p>						
	Natural	Conservancy	Shoreline Residential	Urban	Urban Maritime	Aquatic
Upland disposal	X	C	P	P	P	--
Fill						
In-water or upland restoration	P	P	P	P	P	P
Other in-water fill	X	C	C	C	C	C
Other upland fill	X	C	P	P	P	--
Jetties and Groins	X	X	C ²	C ²	C ²	C ²
Mooring Buoys	X	C	P	P	P	P
Shoreline Habitat and Natural Systems Enhancement Projects	P	P	P	P	P	P
Shoreline Stabilization						
Bioengineering or other soft structural stabilization technique	P	P	P	P	P	P
Hard structural stabilization	X	C	C	P	P	P

¹ Home gardens associated with a single-family residence are allowed in the Shoreline Residential and Urban environment.

² Those structures installed to protect or restore ecological functions may be processed as a Substantial Development Permit.

³ Except for marinas, only commercial uses that are incidental to the primary residential use and are compatible with the residential character of the neighborhood, such as home occupations and bed and breakfast inns, may be permitted.

⁴ Private piers are only permitted in single-family residential use areas within Flounder Bay and along Cap Sante. All other residential piers are prohibited.

⁵ Some above-water aquaculture projects may be allowed as a conditional use in limited circumstances per [SMP Section 8.4 AMC 19.72.525](#).

⁶ A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline Substantial Development Permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the act and may require a Substantial Development Permit, as required by WAC 222-50-020.

⁷ So long as provisions within AMC Chapter 19.64, Parking are met, and a public access easement, to the satisfaction of the Shoreline Administrator, is provided.

Commented [GL36]: Gap Analysis: Table 5-1 #3

Commented [AC37]: Gap Analysis: Table 2-1 2017e

B. Development Standards

- Table [5-2 19.72.365\(B\)](#) establishes development standards, specifically lot size, lot coverage, height limits, and shoreline setbacks. The standards contained in Table [5-2 19.72.365\(B\)](#) are minimum requirements unless otherwise specified by this Master Program. In addition, shoreline developments must comply with all density, lot area, setback and other dimensional requirements of the responsible local government zoning and subdivision codes. Variances may be granted to avoid denying "reasonable use of private property" in violation of constitutional or statutory limitations on regulation. Applicants are encouraged to setback further and to allow opportunity for restoration of impaired ecological functions.
- Building Height.** No building or structure in shoreline jurisdiction may exceed the height limits indicated in [Table 5-2 19.72.365\(B\)](#), except as allowed per subsection (2)(g). In calculating the height of a building, the following measurement methods must be used:

- a. For a lot that slopes uphill from, or remains at the same elevation as, the property line at the front (street) of the building, the building height is measured to the highest point of the structure from the average of the natural or existing topography at the foundation at the front (street side) of the building.
- b. For a lot that slopes downhill from the property line at the front (street) of the building, the building height is measured to the highest point of the building from the average grade level directly under the building.
- c. For a lot that has frontage on two or more streets and the lot slopes downhill from the property line on either street frontage, the building height is measured to the highest point of the building from the average of the natural grade directly under the building.
- d. For purposes of a-c above:
 - i. Calculation of the average topography is made by averaging the elevations of the center of all exterior walls of the proposed structure.
 - ii. Natural or existing topography is the topography of the land immediately prior to any site preparation, grading, excavation, or filling. Where land is regraded for purpose of a land division, the "natural or existing topography" is the grades as they exist at the time of recording of the final plat.
- e. For over-water structures, height is measured to the highest point of the structure from the ordinary high water mark elevation.
- f. For wireless service facilities and emergency communication facilities, structure height is measured from the lowest pre-existing ground level within the footprint of the facility to the highest point on the facility, including but not limited to the antenna or antenna array.
- g. Exceptions: The following structures may be erected above the height limits established in Table 5-2 19.72.365(B) below:
 - i. Cranes, gantries, mobile and fixed conveyors and similar equipment necessary for the functions of marinas, marine manufacturing, permitted commercial, industrial or port activities and servicing vehicles.
 - ii. Flagpoles or masts, transmission towers, chimneys, smokestacks, aerials or stairwells, when part of a permitted use.
 - iii. Belfries, monuments, spires or steeples, transmission towers, provided such structures must be designed to minimize obstruction of views.
 - iv. In mixed use and industrial zones, covers for elevator and other mechanical equipment and monitors for light and ventilation are permitted when occupying less than 15% of the total roof area and less than 5% of lot coverage and extending not more than 10 feet above roof level.
- h. When considering allowance of the structures (listed in this subsection (g)) to exceed the height limitations, the decision-maker ~~must~~will consider:
 - i. View obstruction;
 - ii. Alternate siting outside shoreline areas;
 - iii. Significance of alteration of existing skyline profile.

Commented [AC38]: Gap Analysis: Table 5-1 #4

Commented [AC39]: Ecology Initial Determination

iv. ~~The Shoreline Variance criteria in Section 3.2(C) of this SMP.~~

Commented [AC40]: Ecology Initial Determination

Table 19.72.365(B) Shoreline Development Standards Matrix

Environment Designation	Min. Resid. Lot Size (sq.ft.)	Lot Coverage % of Area ¹	Max. Height	Setback ²	
				Water-Dependent	Non-Water-Dependent
Shoreline Residential					
Burrows Bay (between east end of Croatian Way and Skyline Way)	7,500	35% ³	35'	0'	25'
All other remaining areas	6,000 or 7,500	35% ³	35'	0'	60' ⁵
Urban					
Burrows Bay (Skyline Marina to Washington Park)	Per Zoning	50%	35'	0'	25'
All other remaining areas	Per Zoning	50%	50' ⁶	0'	25'
Urban Maritime	NA	50%	50' ⁶	0'	25'
Conservancy	Per Zoning	25% ³	25'	0'	100'
Natural	NA	NA	NA	0'	100'
Aquatic	NA	NA	-- ⁴	NA	NA

¹ Lot Coverage: Buildings or structures in the Shoreline Area must not occupy a greater percentage of a lot than indicated.

² Setback: Setback must be the minimum distance measured in feet from the ordinary high water mark on a horizontal plane perpendicular to the shoreline.

³ The impervious surface limits on residential development located in ~~Chapter 5, Sections 5.8~~ [AMC 19.72.345](#) and [AMC 19.72.350](#) ~~5.9~~, supersede general lot coverage standards in this table. [Parking lots, if permitted under AMC Table 19.72.365\(A\) and AMC 19.72.350\(G\) as accessory to legally existing adjacent to pre-developed Aquatic Designations containing overwater structures or uses in the Aquatic Designation, are exempt from this requirement.](#) ~~Parking lots, if permitted under Table 5.1 as adjacent to pre-developed Aquatic Designations containing overwater structures, are exempt from this requirement.~~

Commented [AC41]: Gap Analysis: Table 4-1 #4

⁴ See adjacent upland designation.

⁵ See [DR 5.9](#) [AMC 19.72.350\(D\)](#) for setback reduction criteria, if applicable.

Commented [AC42]: Ecology Initial Determination

⁶ ~~Structures over 35 feet must demonstrate that they will not~~ ~~No permit shall be issued pursuant to Table 5.2 for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.~~ ~~Per~~ [consistent with RCW 90.58.320 and View Protection/Aesthetics regulation DR 6.4.18](#) [AMC 19.72.425 A.6\(c\).](#)

Commented [AC43]: Gap Analysis: Table 4-1 #4

Commented [AC44]: Gap Analysis: Table 5-1 #4, Ecology Initial Determination

Article 4. Environmental Protection General Regulations

19.72.410 – ~~Introduction~~ [Applicability](#)

The intent of these regulations is to provide policies and regulations that protect the shoreline environment as well as the critical areas found within the shoreline jurisdiction. These policies and regulations apply to all uses, developments and activities that may occur within the shoreline jurisdiction regardless of the Shoreline Master Program environment designation. They are to be implemented in

conjunction with the specific use and activity policies and regulations found in this Master Program.

The Shoreline Management Act (SMA) mandates the preservation of the ecological functions of the shoreline by preventing impacts that would harm the fragile shorelines of the state. The SMA also mandates that local master programs include goals, policies and actions for the restoration of impaired shoreline ecological functions to achieve overall improvements in shoreline ecological functions over time (WAC 173-26-201(2)(f)).

The environment protection policies and regulations of this Master Program address general environmental impacts and critical areas. General environmental impacts include effects upon the elements of the environment listed in the State Environmental Policy Act (SEPA) (WAC 197-11-444). These regulations are not intended to limit the application of SEPA.

The Anacortes Critical Area Regulations are incorporated within the SMP under ~~Section 6.6~~ [AMC 19.72.435](#), Critical Areas—General. The City recognizes that there are inherent conflicts between water-dependent uses and the desire for shoreline setbacks. These conflicts are addressed in the Fidalgo Bay habitat plan of 2005 titled: *Plan for Habitat Protection, Restoration and Enhancement Fidalgo Bay and Guemes Channel*, which strives to balance these conflicting goals. When any provision of this Master Program conflicts with any other provision of this Master Program, the provision which provides more protection to critical areas and the environment must apply.

19.72.415 – Organization

These regulations first present general environmental policies and regulations including analysis of impacts, mitigation, bonding, and monitoring. Second, policies and regulations protecting the broad elements that comprise the shoreline environment (e.g., earth, air, and water) are provided. Third, ~~this article~~ presents general and specific policies and regulations for “critical areas” including: wetlands, geologically hazardous areas, frequently flooded areas, and fish and wildlife habitat conservation areas, ~~including exclusions where the AMC 19.70, Ordinance #, dated, Critical Areas Regulations do not apply within shoreline jurisdiction,~~ as described under ~~Section 6.6~~ [AMC 19.72.435](#) Critical Areas—General. Regulations for the protection of critical aquifer recharge areas are dealt with ~~under by incorporating~~ AMC Chapter 19.70, [Critical Areas](#) (Ordinance #3064, dated July 26, 2021) ~~Critical Areas Regulations into the SMP in AMC 19.72.435.~~ And finally, ~~this article~~ presents policies and regulations for conservation of vegetation in shoreline jurisdiction.

19.72.420 – Impacts, Mitigation, Bonding

A. Development Regulations

I. General

- a. All shoreline development and activity must be located, designed, constructed, and managed in a manner that avoids, minimizes and/or mitigates adverse impacts to the environment. The preferred mitigation sequence (avoid, minimize, rectify, reduce, or compensate for the environmental impact) must follow that listed in WAC 173-26-201((2)(e), see also definition of “Mitigation” listed in this Master Program, ~~Chapter 12~~ [AMC 19.72.915](#)).
- b. In approving shoreline developments, the City of Anacortes must ensure that shoreline development, use, and/or activities will result in no net loss of ecological functions necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time to the extent consistent with constitutional and statutory limitations on the regulation of private property. To this end, the City may require modifications to the site plan and/or adjust or prescribe project dimensions, intensity of use, and screening as deemed appropriate. If impacts cannot be avoided through design

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modifications, the City will require mitigation commensurate with the project's adverse impacts.

- c. Identified significant short term, long term, or cumulative adverse environmental impacts lacking appropriate mitigation will be sufficient reason for permit denial consistent with constitutional and statutory limitations on such denials.
- d. Wood treated with creosote or pentachlorophenol is prohibited. Use of other wood treatments must be minimized to the extent practicable.

2. Mitigation

- a. In addition to the requirements for critical areas reports contained in the Critical Areas Regulations, ~~Ordinance #XX, dated XX, found under AMC 19.70~~ AMC 19.72.435, the mitigation plan must address the following:
 - i. Inventory existing shoreline environment including the physical, chemical and biological elements and provide an assessment of their condition.
 - ii. A discussion of the project's impacts and their effect on the ecological functions necessary to support existing shoreline resources.
 - iii. A discussion of any federal, state, or local special management recommendations which have been developed for wetlands or nearshore species or habitats located on the site;
 - iv. An assessment of habitat recommendations proposed by resource agencies and their applicability to the proposal;
 - v. A discussion of measures to preserve existing habitats and opportunities to restore habitats that were degraded prior to the proposed land use activity.
 - vi. Planting and soil specifications; success standards; and contingency plans;
 - vii. A discussion of proposed measures which mitigate the impacts of the project to ensure no net loss of shoreline ecological functions, value, and proposed success criteria;
 - viii. An evaluation of the anticipated effectiveness of the proposed mitigation measures to ensure no net loss of ecological functions;
 - ix. A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed, including proposed monitoring and maintenance programs;
 - x. Contingency plan if the mitigation fails to meet established success criteria;
 - xi. Any additional information necessary to determine the impacts of a proposal and mitigation of the impacts.

Mitigation plans and/or critical areas reports must be forwarded to the appropriate state and/or federal resource agencies and affected Tribes for review and comment.

- b. Compensatory mitigation in the immediate vicinity of the impact ~~must~~will be the preferred mitigation option, except where off-site mitigation can be demonstrated to be more beneficial to shoreline ecological functions; for example, mitigation off-site may be the better choice if large, cohesive areas are available off-site while only small fragmented areas are available on-site for mitigation.

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- c. If off-site mitigation is implemented, the applicant must demonstrate to the satisfaction of the Shoreline Administrator that the mitigation site will be protected in perpetuity. This may be accomplished through various means including but not limited to dedication of a permanent easement to the City or approved non-profit entity; participation in a publicly sponsored restoration or enhancement program or purchase of credits from a state certified mitigation bank in accordance with Chapter 90.84 RCW (Wetlands Mitigation Banking). Any restrictions, conditions, or easements which are tied to the parcel through off-site mitigation must be recorded on a revised Notice on Title.
 - d. Where feasible, replacement mitigation must be required prior to impact and, at a minimum, prior to occupancy.
3. Bonding. Except for projects undertaken by public entities, performance or maintenance bonds or other security must be required by the City to assure that work is completed, monitored, and maintained.
 4. Monitoring
 - a. As a condition of approval, the City ~~must~~will require periodic monitoring for up to five years from the date of completed development to ensure the success of required mitigation. The monitoring period may be extended if the success criteria set forth in the approved mitigation plan fail to be accomplished, or the mitigation plan has a longer horizon.
 - b. Monitoring plans must be forwarded, for review and comment, to state and/or federal resource agencies and affected Tribes with jurisdiction.

19.72.425 – Environmental Elements

A. Development Regulations

1. Air.

- a. In approving shoreline development, uses or activities, the Planning Commission, City Council, or Hearing Examiner may apply conditions to control emissions, including any compounds, chemicals, pollutants, odors, fugitive dust, or vehicle exhaust with the intent of avoiding significant adverse impacts to the legal use of adjoining properties and ensuring adherence to the guidelines, policies, standards and regulations of applicable air quality management programs and related regulatory agencies.

2. Earth

- a. All shoreline uses and activities must be located, designed, constructed and managed to minimize interference with beneficial natural shoreline processes such as littoral drift, sand and gravel movement, erosion, and accretion. For projects proposing clearing and grading see [AMC 19.72.445 Section 6-5](#) Vegetation Conservation, ~~Chapter 9~~[AMC 19.72.610-660](#) Specific Modification Policies and Development Regulations.
- b. Gravel and sand bars and other accretion shore forms are naturally unstable environments. They are valued for recreation and in some cases may provide habitat. Therefore, new development on these shore forms is prohibited and modification must be allowed only to protect existing occupied structures. Furthermore, developments that could disrupt the processes benefiting these shore forms must be carefully evaluated and allowed only when the impacts of such disruption can be adequately mitigated, and where there is a demonstrated public benefit.

- c. An erosion and sedimentation control plan must be submitted with a permit application for activities that involve the removal of vegetation, stockpiling of earth or other materials, or any activity that could result in shoreline erosion or siltation. Said program must conform to AMC 19.76, Stormwater, and AMC 19.78, Clearing and Grading, to utilize Best Management Practices (BMPs) to prevent shoreline erosion and siltation.

3. Noise.

- a. Noise emanating from a shoreline use/activity must be muffled so as to not to interfere with the designated use of adjoining properties. This determination must take into consideration ambient noise levels, intermittent beat, frequency, and shrillness. Shoreline developments/activities must comply with the maximum permissible noise levels and time limits set forth in Anacortes Municipal Code Chapter 19.69, Standards, Generally. Exception: This regulation does not apply to fog horns, tsunami warning or other emergency warning systems.

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19.72.430 – Archaeological/Historical/Cultural Impacts.

- A. Applicability: The following provisions apply to archaeological and historic resources consistent with state law.
 - 1. All shoreline permits ~~must~~will contain provisions that require developers to comply with all applicable state law requirements regarding preservation of archaeological and historic resources, including provisions to stop work and notify the appropriate agencies should protected resources be uncovered during excavation.
 - c. Archaeological sites located both in and outside shoreline jurisdiction are potentially subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 (Archaeological sites and records) and chapter 25.48 WAC (Archaeological excavation and removal permits) as well as the provisions of this section.
 - d. Where archaeological or historic sites have been identified, the City may require public access consistent with constitutional and statutory limitations, provided the development is consistent with the provisions for public access and provided further it is determined that public access to the site will not damage or reduce the cultural value of the site.

19.72.435 – Critical Areas –General

- A. General Regulations. The City's Critical Areas Regulations as adopted under Ordinance #3064, dated July 26, 2021, and AMC 19.70 are hereby incorporated into this Master Program by reference with the following exclusions:
 - 1. 19.70.035, Critical Areas Review
 - 2. 19.70.040, Exempt Activities
 - 3. 19.70.045, Permitted Alterations
 - 4. 19.70.050, Reasonable use exception and critical area variance
 - 5. 19.70.225(B) Wetlands – General Development Standards, Exemptions and allowed activities
 - 6. 19.70.230 Wetlands – Specific Wetland Category Development Standards. These allowances can be utilized in instances where water-related development is proposed by the applicant.

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7. [19.70.325\(B\)](#) Fish and wildlife habitat – General Development Standards for all FWHCAs, Exemptions.

8. [19.70.330\(C\)](#), Fish and wildlife habitat – Specific Standards for streams, Buffer Reduction Standards.

9. [19.70.330\(E\)](#), Fish and wildlife habitat – Specific Standards for streams, Functionally Separated and Isolated Stream Buffers.

7.10. [19.70.425\(B\)](#) Geologically hazardous areas – General development standards, Exemptions.

8.11. Any provision of the Critical Areas Regulations that is not consistent with the Shoreline Management Act Ch. 90.58 RCW, and supporting Washington Administrative Code chapters, does not apply in shoreline jurisdiction. Non-applicable provisions include those related to procedural/permit processes, non-conforming structures/uses, appeals, and enforcement.

B. Fish and Wildlife Habitat Conservation Areas

1. Applicability. This section provides ~~policies and~~ regulations that apply to fish and wildlife habitat conservation areas, including critical saltwater and freshwater habitats as defined by WAC 173-26-221(2)(c)(iii) and (iv). These ~~policies and~~ regulations apply in addition to the shoreline-specific critical areas protection standards for fish and wildlife habitat conservation areas found in the Critical Areas Regulations referenced within [Section 6.6 AMC 19.72.435\(A\)](#), Critical Areas ~~General~~, for Fish and wildlife habitat.

- a. Kelp beds, eelgrass beds, herring spawning and holding areas, smelt and sand lance spawning and holding areas and other critical saltwater habitats are classified as “critical saltwater habitats” in the Shoreline Master Program Guidelines, WAC 173-26-221(2)(iii). The Guidelines also classify subsistence, commercial and recreational shellfish beds, mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association as “critical saltwater habitat”. The Department of Fish and Wildlife has identified the following habitats of special concern: kelp beds, eelgrass beds, herring spawning areas, sand lance spawning areas, smelt spawning areas, juvenile salmonid migration corridors, rock sole spawning beds, rockfish settlement and nursery areas, and lingcod settlement and nursery areas.
- b. In addition, it is important to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish stocks, such as salmon (RCW 36.70A.172), some of which are classified as “Threatened” under the Endangered Species Act. Fish and wildlife habitat conservation areas include, but are not limited to, areas with which endangered, threatened, and sensitive species have a “primary association” (see WAC 365-130-080). Critical Saltwater Habitats include these “primary association” areas. Examples of “primary association” areas include, but are not limited to, the following:
 - i. Shallow water/low gradient habitats along shorelines
 - ii. Migratory corridors that allow juvenile salmon to move within and between habitats (e.g., beaches, as well as eelgrass, kelp, etc.). In addition, a diversity of shoreline habitats is essential for providing adequate functions for juvenile salmon.
- c. [AMC Section 19.70.625\(B\)](#), Frequently Flooded Areas – Critical Areas Report Additional Requirements provides the minimum report requirements for a Floodplain Habitat Assessment and Mitigation Plan, as required by FEMA Region X, 2013, or hereafter

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amended. In addition, the *Northern Skagit County Bays and Shoreline Habitat Conservation and Restoration Blueprint 2005 Update* describes protection measures for critical salt-water habitats addressing these areas within City.

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2. Development Regulations

- a. Water-dependent development and uses, including marinas, docks, piers, mooring areas, underwater parks, utility crossings, and shoreline modifications, must not intrude into or be built over critical saltwater habitat unless the applicant can show that all of the following criteria can be met:
 - i. The use preference listing in RCW 90.58.020 for uses in Shoreline of Statewide Significance must be adhered to.
 - ii. The public's need for such a structure is clearly demonstrated and an alternative alignment or location on the applicant's property that would avoid impacts to critical saltwater habitats is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose. An alternatives analysis will be required for any non-exempt project proposed within FVHCAs. The analysis should include in part, shoreline bathymetry, shoreline features at the site, and substrate composition.
 - iii. The project is consistent with the state's interest in resource protection and species recovery.
 - iv. Impacts to critical saltwater habitat functions are mitigated to result in equal or better ecological function.
- b. Except as a habitat improvement or restoration measure, aquatic herbicide treatments, mechanical removal of vegetation and aquatic pesticide treatments must not be used on critical salt-water habitats.
- c. Sand, gravel or other materials must neither be added nor removed from critical salt-water habitats, except when part of an approved restoration effort or beach nourishment program or as allowed in DR-6.7.I, above.
- d. New outfalls (including stormwater and sewer outfalls) and discharge pipes must not be located in critical saltwater habitats or areas where outfall or discharge will adversely affect critical saltwater habitats unless the applicant can show that all of the following can be met:
 - i. There is no alternative location for the outfall or pipe.
 - ii. The outfall or pipe is placed below the surface of the beach or bed of the water body.
 - iii. The outfall discharges waterward of the intertidal zone
 - iv. The disturbed area will be revegetated with native plants.
 - v. The discharge point(s) on the outfall or discharge pipe is located so the discharges, including nutrients in the discharge and currents, do not adversely affect critical salt-water habitats.
- e. The City must maximize the use of existing outfalls.
- f. In addition to requiring compliance with ~~DR-6.5.9~~ [AMC 19.72.445](#) for certain types of developments and uses (e.g., minimum ten-foot wide planting bed(s) of riparian vegetation along marine shorelines), the City must require the establishment of buffer areas for

activities adjacent to fish and wildlife habitat conservation areas on a case by case basis through a critical area report when needed to protect such habitat conservation areas. The applicant ~~shall~~must, with assistance of a licensed professional, determine the buffer(s) necessary, as applicable, depending upon the number of species present and the presence of existing habitat corridors to be preserved. The critical area report needs to reflect the nature of the existing vegetation, sensitivity of the habitat, and the type and intensity of human activity proposed to be conducted nearby. Habitat conservation areas and their buffers must be preserved in perpetuity using native growth protection easements and critical area tracts. In order to determine the need or extent of a buffer, critical area reports must be required for all development in or adjacent to a habitat conservation area, utilizing AMC 19.70.320, Fish and wildlife habitat - Mapping.

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3. Until an inventory of critical saltwater habitat is done, prior to construction all over water and near-shore developments must conduct an inventory of site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of inventory must be consistent with accepted research methodology. New studies will be developed only where existing information is inadequate or does not exist.

C. Frequently Flooded Areas and Tsunami Inundation Areas

1. Portions of Anacortes' shoreline are subject to periodic flooding that may result from factors including, but not limited to, unusual amount of rainfall over a short period of time, high tides, and wind driven waves. Tsunamis also pose a less frequent, but potentially more hazardous, type of flooding event.
2. Development Regulations. All new development and new uses within the jurisdiction of this Master Program must comply with the provisions of City Critical Areas Regulations referenced within ~~6.6~~AMC 19.72.435, Critical Areas – General, AMC 19.70.600-625, and Floodplain Management Regulations, AMC Chapter 19.74.

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D. Geologically Hazardous Areas

1. ~~Introduction~~Applicability.

- a. Geologically hazardous areas are areas susceptible to severe erosion; slide activity, or other geologic events. In the Anacortes shoreline, high marine bluffs are the most visible type of geologically hazardous area, although seismic, tsunami and erosion hazards have also been mapped.
- b. The more severe hazard areas are not suitable for placing structures or locating intense activities or uses due to the inherent threat to public health and safety. Vegetation removal during construction and development of adjacent properties alters surface runoff and ground water infiltration patterns that can lead to increased slope instability.
- c. A certain level of erosion of shorelines and marine bluffs is natural to the Puget Sound area. Erosion from "feeder bluffs" is the primary source of sand and gravel found on beaches including accretion beaches (gravel bars, sand pits and barrier beaches). Extensive "hardening" of feeder bluff areas can eventually starve beaches down drift of the bluff, resulting in lowered beach profiles and the potential for increased erosion. Changes in the beach substrate resulting from reduced sediment deposition may result in negative habitat impacts. Erosion and accretion are natural processes that provide ecological functions and thereby contribute to sustaining the natural resource and ecology of the shoreline.

2. Development Regulations

a. Applicability. Regulations for Geologically Hazardous Areas are set forth in the Critical Areas Regulations referenced within [Section 6.6 AMC 19.72.435](#), Critical Areas – General and contained in AMC 19.70.400-450. Note that in addition to the buffers applied therein, vegetation preservation may be required by [Section 6.5 AMC 19.72.445](#) Vegetation Conservation and [Chapter 9 Article 6 \(AMC 19.72.610-660\)](#) Specific Shoreline Modification Policies and Development Regulations.

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i. The following activities are allowed in geologically hazardous areas specifically mapped and designated by ordinance of the city council pursuant to allowed activities of this section and do not require submission of a critical area report, so long as they meet all applicable provisions of the SMP:

ii. Erosion and Landslide Hazard Areas. Only those activities approved and permitted consistent with an approved critical area report in accordance with this master program, in addition to shoreline permit provisions under AMC 19.20, ~~must~~ may be allowed in erosion or landslide hazard areas.

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iii. Seismic, Mine, and Tsunami Hazard Areas. The following activities are allowed within seismic, mine, and tsunami hazard areas:

(1) Construction of new buildings with less than two thousand five hundred square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;

(2) Additions to existing single-story residences that are two hundred fifty square feet or less; and

(3) Installation of fences.

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(4) Maintenance, replacement, or repair of existing utility and transportation facilities.

E. Wetlands

1. ~~Introduction~~ [Applicability](#). Wetlands are those areas that are inundated or saturated by ground or surface water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. A wetland directly impacts water quality and stormwater control by trapping and filtering surface and ground water. Wetlands also provide valuable habitat for fish and wildlife. Because of the difficulty in replacing these rare and valuable areas, these regulations control development adjacent to and within wetlands, and limit the amount of wetlands, which may be altered. The purpose of these regulations is to protect the public from harm by preserving the functions of wetlands and streams as recharge for ground water, flood storage, floodwater conveyance, habitat for fish and wildlife, sediment control, pollution control, surface water supply, aquifer recharge and recreation. Wetlands in Anacortes are characterized by hydric soils, water-tolerant plants (hydrophytes), and surfaces that are either saturated or inundated with water for a specified period of time.

2. Development Regulations.

a. Applicability. See regulations set forth in the Critical Areas Regulations referenced within [Section 6.6 AMC 19.72.435\(A\)](#), Critical Areas—~~General~~, for activities impacting wetlands proposed within shoreline jurisdiction.

b. Prohibit alteration of wetlands and their buffers unless:

a. ~~Doing so will constitute a violation of constitutional or statutory limitations on regulations of private property or~~

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i. The proposal is a water-oriented use and the proponent can conclusively demonstrate that impacts are unavoidable and that mitigation measures have been applied via mitigation sequencing, as defined in ~~Chapter 12, Definitions~~ [AMC 19.72.915](#), and WAC 173-26-201(2)(e).

ii. ~~Other~~ Development proposals that cannot meet requirements outlined within ~~Section 6.6~~ [AMC 19.72.435](#), Critical Areas – General, ~~and/or this regulation, must apply for may seek relief through~~ a Shoreline Variance, per ~~Section 3.2~~ [AMC 19.72.220+5](#), Variances. In either case, the proponent shall provide mitigation to achieve no net loss of wetland function or value, according to an approved mitigation plan prepared consistent with this Master Program, the Critical Areas Regulations, AMC 19.70.

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19.72.440 – Shoreline Public Access

A. ~~A. Applicability.~~ Anacortes is a uniquely situated jurisdiction. An attractive destination for travelers because of the geography and historic setting, it is also a stop along the state highway linking to Whidbey Island, the San Juan Islands, Vancouver Island, and points north and east. The State Parks, the Waterfront Festival, and the Arts Festival, among others, attract large numbers of visitors from far and wide annually. Inarguably, the economic vitality of the City is bolstered by the public access to and enjoyment of the shorelines.

Shoreline public access is the physical ability of the general public to reach and touch the water's edge or the ability to have a view of the water and the shoreline from upland locations. There are a variety of types of public access, including docks and piers, boat launches, pathways and trails, promenades, street ends, picnic areas, beach walks, viewpoints and others.

An important goal of the Shoreline Management Act is to protect and enhance public access to the state's shorelines. Specifically, the SMA states:

RCW 90.58.020: “[T]he public’s opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally.”

“Alterations of the natural conditions of the shorelines of the state, in those limited instances when authorized, shall be given priority for...development that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state.”

Public access and use of the shoreline is supported, in part, by the Public Trust Doctrine. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses, and that this trust is not invalidated by private ownership of the underlying land. The doctrine limits public and private use of tidelands and other shorelands to protect the public's right to use the waters of the state. The Public Trust Doctrine does not allow the public to trespass over privately owned uplands to access the tidelands. It does, however, protect public use of navigable waterbodies.

Requiring public access on privately owned property as a condition of development has been the subject of considerable legal review. Our state Constitution and the U.S. Constitution provide both the authority for conducting the activities necessary to carry out the Shoreline Management Act and significant limitations on that authority. While the SMA stresses the need for public access, our state and the U.S. Constitutions provide for protection of certain private property rights. Where public access is required as a permit condition, the courts have stated that there must be a rational and

roughly proportionate connection between the project's impact on public access and the public access requirement. Certain state statutes also impose limitations on the regulation of private property.

~~19.72.400—Background~~

- B. ~~B—Background.~~ This Public Access Chapter is preceded by several planning efforts to maintain and enhance public access to the shoreline in Anacortes. The public access policies and strategies included in this Master Program build on those established in past planning documents.

~~19.72.410—Public Access Development Regulations~~

~~C. Public Access Development Regulations General Requirements~~

1. Developments, uses, and activities must be designed and operated to avoid significantly blocking, reducing, or adversely interfering with the public's visual or physical access to the water and the shorelines.
2. Except as provided in regulations [AMC 19.72.440.A\(4\)](#) and [AMC 19.72.440.A\(5\)](#), shoreline substantial developments or conditional uses must provide public access where any of the following conditions are present:
 - a. Where a development or use will create increased demand for public access to the shoreline, the development or use must provide public access to mitigate this impact.
 - b. Where a development or use will interfere with an existing or potential public access way, the development or use must apply mitigation sequencing principles and provide public access to address the impact.
 - c. Where a non-water-enjoyment use is converted to a water-enjoyment use by the addition of substantial opportunity for public access. For example, a restaurant may qualify as a water-enjoyment use when located, designed and operated to assure the public's ability to interact with the shoreline.
 - d. Where land is subdivided into five or more parcels.
 - e. Where a development or use is located on public land or is managed by a public entity, unless access is incompatible with safety, security, or environmental protection.
3. Required public access must include the preservation of shoreline views, the establishment of public access easements to and along the shoreline, enhancement of an adjacent street-end or park, or other consideration commensurate with the degree of impact caused by the development.
4. Public access is not required if the applicant can demonstrate to the satisfaction of the City that constitutional and or statutory limitations would be violated by the provision of such access. Nor is public access required for individual single-family residences which are not part of a development planned for more than four parcels.
5. Alternatives to on-site, physical access to the shoreline may be approved if the applicant can demonstrate to the satisfaction of the City that one or more of the following conditions exist:
 - a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;

- b. Access is not feasible due to the configuration of existing parcels and structures, such that access areas are blocked in such a way that cannot be reasonably remedied by the proposed development;
- c. Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;
- d. The cost of providing on-site access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
- e. Unacceptable environmental harm which cannot be mitigated, such as damage to spawning areas or nesting areas, will result from the public access; or
- f. Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated.

Provided further, that the applicant has first demonstrated and the City has determined that all reasonable alternatives have been exhausted, including, but not limited to:

- g. Regulating access by such means as limiting hours of use to daylight hours, or allowing public access to only a portion of the site.
 - h. Designing separation of uses and activities, using such means as terracing, hedges, and landscaping.
6. When on-site public access is not required under [AMC 19.72.440.A\(5\)](#)~~DR-7.4.5~~, alternative shoreline access must result in an equal or greater public benefit. Alternatives may include but are not limited to:
 - a. Publicly accessible rooftop decks.
 - b. Off-site public access, such as improvements to a nearby street end, an offsite viewpoint, or a trail system, purchase of land or an easement at a location appropriate for future access improvements.
 - c. A payment in lieu agreement with the City in accordance with RCW 82.02.020 (relating to fees associated with development).
 7. Off-site public access, when required, must meet the same standards and requirements as on-site public access.
 8. In providing visual access to the shoreline, significant vegetation removal of native vegetation must not occur, including by clearing or by topping. (Note: Trimming of trees and vegetation may be allowed, pursuant to ~~Section 6.5~~[AMC 19.72.445](#) of this Master Program).
 9. When required, public access sites must be fully developed and available for public use at the time of occupancy or use of the development or activity, except where the decision maker determines an appropriate mechanism for delayed public access implementation is necessary for practical reasons. If on or over the water, development must be constructed to minimize interference with physical access along the beach and views from surrounding properties to the shoreline and adjoining waters, including locating structures as far landward as feasible.

D. Physical Access and Easements

1. Where on-site physical access is appropriate, the development must dedicate, improve, and provide maintenance for a pedestrian easement that provides area sufficient to ensure usable access to and along the shoreline for the general public.
2. Public access easements must be designed to accommodate the anticipated intensity of use, generally ranging from a minimum 12-foot width easement in less traveled residential areas to a minimum 25-foot width in more intensely urbanized areas. Where deemed necessary to protect environmental functions, the easement must accommodate an area of native vegetation between the OHWM and the public access walkway/viewpoint
3. A reduced width access easement may be allowed to facilitate redevelopment of existing structures that encroach into the easement area, provided that the easement and design of the access is sufficient to provide safe access or alternative shoreline access is provided.
4. Public access easements and permit conditions must be recorded in an appropriate manner, such as on the deed where applicable or on the face of a plat or short plat as a condition running in perpetuity with the land. Said recording with the Auditor's office must occur at the time of permit approval (RCW 58.17.110; relating to subdivision approval or disapproval) and prior to the issuance of any land disturbing or construction permits.
5. The standard state approved logo or other approved signs that indicate the public's right of access and hours of access ~~must~~will be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. Signs must be designed to distinguish between public and private areas. In accordance with the regulations in this section, signs controlling or restricting public access may be approved as a condition of permit approval.
6. Future actions by the applicant or other parties must not diminish the usefulness or value of the public access site.

E. Design

1. Public access sites must be connected directly to the nearest public area (e.g., street, public park, or adjoining public access easement). Where connections are not currently possible, the site must be designed to accommodate logical future connections. In either case, the design must take into consideration the priority placed on protecting physical access along the beach (i.e., boardwalk connections that interfere with physical access along the adjoining beach area are discouraged).
2. Public access sites must be made barrier free for the physically disabled, where feasible, and designed consistent with the Americans with Disabilities Act.
3. Public access landscape design must use native vegetation in the shoreline setback and predominantly native vegetation (i.e., 80% or greater) in the remainder of shoreline jurisdiction, particularly drought-resistant and, along marine shorelines, saline-tolerant plant species. Landscape plantings may be required where desirable to provide public/private space separation.
4. Public access must be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation ~~must~~will be required. Materials must be:
 - a. Consistent with the character of the shoreline and the anticipated intensity of use. For example "formal" (e.g. concrete sidewalks, colonnade) elements in the downtown or "informal" design elements (e.g. log benches, dune grass and gravel paths) along the Guemes Channel.
 - b. Durable, capable of withstanding exposure to the elements; and

- c. Wherever financially feasible and practical, environmentally friendly materials and technology in such things as building materials, paved surfaces, porous pavement, etc., ~~must~~will be used. Creosote-treated timber must not be used within the shoreline jurisdiction.

F. Public/Private Separation

1. Public access facilities must look and feel welcoming to the public, and not appear as an intrusion into private property.
2. Natural elements such as logs, grass, shrubs, and elevation separations are encouraged as means to define the separation between public and private space.
3. New residential development bordering public spaces that contain adjacent pathways must be designed to provide a visual privacy separation between uses.

G. Amenities

1. Furniture used in public access areas must be appropriate for the proposed level of development, and the character of the surrounding district.
2. The City may require the installation of benches; bicycle racks; pet waste, garbage and recycling receptacles; educational signage; and other street furniture at shoreline public access points commensurate with the degree of project impact. Where required:
 - a. Benches must be set back from a walkway or path so pedestrians will still have room to walk by when the benches are in use. At least four (4) feet of unobstructed pathway width must remain where benches are placed on pathways. Benches may be built without backs and must be at least 4 to 5 feet in length.
 - b. Provisions for maintenance must be required as a condition of permit approval.
 - c. Educational signage must be used to identify unique natural features, maritime uses and historical landmarks.

H. Parking

1. Parking associated with Public Access must comply with applicable parking requirements in ~~Chapter 8~~ [AMC 19.72.550, Specific Use Policies and Development Regulations, Section 8.9](#) [Parking Facilities](#). ~~Section 8.11~~ [AMC 19.72.550.B.3\(g\)](#) includes specific development regulations for vista parking facilities.

19.72.445 – Vegetation Conservation

A. ~~Introduction~~ [Applicability](#)

1. Vegetation conservation includes activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species.
2. Unless otherwise stated, vegetation conservation does not include those activities covered under the Washington State Forest Practices Act, except for conversion to other uses and those other forest practice activities over which local governments have authority. Vegetation conservation provisions apply even to those shoreline uses and developments that are exempt from the requirement to obtain a permit. Vegetation conservation standards do not apply retroactively to existing uses and structures.

3. The City's Tree Preservation requirements (Title 16, Ordinance No. 2756, as amended) limits the removal of trees in all parts of the City, including shorelines of statewide significance.

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B. Regulations. Note that all clearing, grading and vegetation removal activities must also be consistent with the environmental protection regulations in the remainder of ~~Chapter 6~~ [AMC 19.72.410-460](#), when applicable.

1. Forest practices not covered by the Forest Practices Act ~~must~~will be prohibited.
2. Alteration of the natural landscape must only be allowed as set forth below:
 - a. Landscaping or maintenance associated with an existing legal use or new permitted shoreline use or development.
 - b. Removal of noxious weeds, as listed by the state in Chapter 16-750 WAC, provided such activity ~~must~~will be conducted in a manner consistent with best management practices and the City's engineering design standards and native vegetation is promptly reestablished in the disturbed area.
 - c. Modification of vegetation in association with a legal, non-conforming use provided that said modification is conducted in a manner consistent with this Master Program and results in no net loss to ecological functions or critical fish and wildlife conservation areas.
3. All clearing and grading activities must be limited to the minimum necessary for the intended development.
4. Exposed soils must be immediately developed or revegetated to prevent erosion.
5. Exposed soils must be replanted such that complete coverage of exposed soils is attained within one growing season, or otherwise stabilized using mulch or other similar BMPs.
6. In all cases where clearing is followed by revegetation, native plants ~~must~~will be preferred. Lawns are discouraged due to their limited erosion control value, limited water retention capacity, and associated chemical and fertilizer applications.
7. Clearing and grading within shoreline jurisdiction ~~must~~will only be permitted upon approval of a detailed landscape plan for revegetation. Any restrictions or conditions which are tied to the parcel through the development of a landscape plan must be recorded on a revised Notice on Title. The landscape plan must include:
 - a. A map illustrating the distribution of existing plant communities in the area proposed for landscaping. The map must be accompanied by a description of the vegetative condition of the site, including plant species, plant density, any natural or man-made disturbances, overhanging vegetation, and the functions served by the existing plant community (e.g., fish and wildlife habitat values, slope stabilization).
 - b. A description of the shade conditions created by existing vegetation. This description must include an inventory of overhanging vegetation as well as a determination of how much shade is created by standing trees, during midday at midsummer.
 - c. A detailed landscape map indicating which areas will be preserved and which will be cleared, including tree removal.
 - d. Drawings illustrating the proposed landscape scheme, including the species, distribution, and density of plants. Any pathways or nonvegetated portions must be noted.

- e. A description of any vegetation introduced for the purposes of fish and wildlife habitat. Loss of wildlife habitat must be mitigated on-site. If on-site mitigation habitat is not possible, off-site mitigation ~~must~~will be permitted at a minimum replacement ratio of one-to-one-and-a-quarter (1.25) (habitat lost to habitat replaced).
- f. The revegetation landscaping required by this regulation must meet the following standards:
 - i. At the time of planting, shrubs must be eighteen (18) inches high. Shrubs ~~must~~will be planted such that within two years the shrubs will cover at least thirty percent (30%) of the area that would be covered when the shrubs have attained a mature size.
 - ii. At the time of planting, deciduous trees must be at least two (2) inches in caliper as measured one (1) foot above grade, and coniferous trees must be at up to eight (8) feet in height.
 - iii. The applicant may be required to install and implement an irrigation system to insure survival of vegetation planted. For remote areas lacking access to a water-system, an alternative method (e.g., hand watering) may be approved.
 - iv. For a period of two (2) years after initial planting, the applicant must replace any unhealthy or dead vegetation planted as part of an approved landscape plan.
8. As part of meeting project site area landscaping requirements, and in coordination with any buffer requirements, the applicant for a proposed new development, expansion, or redevelopment project of a non-water-dependent use other than public shoreline access trails that will abut the City's marine shorelines must submit a landscaping plan for approval specifying protection of existing native riparian vegetation within fifteen feet of the OHWM. If native vegetation within fifteen feet of the OHWM has been destroyed or significantly degraded, the landscaping plan must specify replacement by installation of dense native riparian vegetation consisting of trees, shrubs, and groundcovers within and along portions of the fifteen-foot wide strip of land lying immediately landward of the line of ordinary high water (OHW) for currently unarmored shorelines, or the landward edge of existing shoreline armoring for currently armored shorelines. Water-dependent uses and public access trails that will abut the City's marine shorelines are exempt from the locational requirements of planted areas but must provide a landscaping/mitigation plan that provides equal to or greater environment function than already exists. Riparian vegetation should be encouraged, but not required, elsewhere on the site for aesthetic continuity with the riparian vegetation required along the shoreline. ~~DR-5.9.11~~AMC 19.72.350.D.4(b) also requires additional enhancement in the Residential environment. Any restrictions or conditions which are tied to the parcel through the development of a landscape plan must be recorded on a revised Notice on Title. The landscaping plan must also meet the following requirements:
 - a. Locations and Sizes of Required Shoreline Planting Areas. The landscaping plan must specify (a) particular species of salt-tolerant riparian vegetation that are to be planted preferably at existing ground-level, or if that is not feasible, then in raised planting beds. Each planting area must be a minimum of ten feet in width and a minimum of ten feet in length (a minimum of one-hundred square feet). The total minimum linear footage of riparian vegetation to be protected and/or replaced along the project's shoreline must be fifty percent of the project's shoreline length in the case of new development projects and twenty-five percent of the project's shoreline length in the case of redevelopment of already-developed project sites. Subdivision of property must be in a configuration that will not require significant (greater than 25%) native vegetation removal and shoreline modification, and will not adversely impact ecological functions;

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- b. **Plant Selection.** The native riparian plant species must be specified on the landscaping plan. The suitability of the species must be reviewed and approved by a biologist/riparian plant specialist. The plant names listed on the landscaping plan must comply with the names generally accepted in the riparian plant nursery trade. The plan must further specify that (a) all plant materials must be true to species and variety and legibly tagged, and (b) riparian plant materials must be nursery grown in the Puget Sound area of Washington except that dug plants may be used upon approval of the biologist/riparian plant specialist;
 - c. **Plant Sizes.** The landscaping plan must specify the sizes of the riparian plants to be installed. The plan may also specify that larger stock may be substituted provided that (a) it has not been cut back to the specified size, and (b) the root ball is proportionate to the size of the plant. Because smaller stock may be acceptable based upon site-specific conditions, the plan may specify that the biologist/riparian plant specialist may make field determinations to substitute smaller stock for the stock size set forth on the plan.
 - d. **Site Preparation.** The landscaping plan must specify that (a) an amended planting soil must be placed in the planting beds if needed, (b) all existing exotic vegetation must be removed from the planting beds, and (c) the project biologist/riparian plant specialist may make field determinations for the installation of barriers to limit Canada geese intrusion and feeding on installed plants;
 - e. **Plant Monitoring.** The landscaping plan must specify that five-year monitoring will be conducted to ensure the long-term survival and stability of the riparian planting beds, with the elements of the monitoring to be (a) annual inspections of the plants, (b) replacement of failed riparian plants, (c) removal of exotic invasive species that may have become established, and (d) photographic documentation of planting success;
 - f. **Criteria for Success.** The landscaping plan must specify that, at the end of the fifth year of the monitoring, the riparian planting beds ~~must~~will be considered successful if the following performance standards are met: (1) a minimum eighty percent survival rate of the riparian vegetation within the planting beds; and (2) a minimum of fifty percent cover within the planting beds by riparian vegetation four feet tall or taller.
9. **Trimming of trees and vegetation is allowed within shoreline setback areas, under authorization of a shoreline exemption, provided:**
- a. **This provision is not interpreted to allow clearing of vegetation,**
 - b. **Trimming does not include topping, stripping or imbalances; a minimum of 75% of the original crown must be retained to maintain tree health,**
 - c. **Trimming impacts to the following critical areas may require evaluation and a report prepared by a qualified professional to demonstrate:**
 - i. **No direct impact on the nearshore functions and values including fish and wildlife habitat,**
 - ii. **It is not within a wetland or wetland buffer, and**
 - iii. **It does not impact soil stability in landslide and erosion hazard areas.**
 - d. **Trimming is for view preservation, not view creation. Trimming cannot be for more than 25% of limbs in a five-year period, so long as ~~DR-6.5-AMC 19.72.445.B.9~~(b) is also met, whichever is more restrictive. Photo documentation must accompany the shoreline permit application before with flagging showing limb(s) requested for removal.**

- e. A photo of the tree is required as an as-built submittal, post permit issuance.
 - f. Hazardous trees, or those identified as an extreme public nuisance by the Shoreline Administrator, may be removed under an ISA Tree Risk Assessment by a qualified arborist.
 - g. Hand-held equipment removal of invasive or non-native shoreline vegetation, or noxious weeds (WAC 16-750) must be re-planted with the equivalent square footage of native vegetation in the disturbed area. If nonnative tree(s) are removed in shoreline jurisdiction, it shall be replaced with native trees at least a 1:1 ratio, in addition to the requirements within Title 16, Tree Preservation, along with Table 16.50.070.(D)3 – Tree Unit Credits. This clearing must occur with hand-held equipment within the shoreline setback. A plan can be drawn by the applicant, so long as it is to scale, showing native species proposed, for permit submittal.
 - h. Ground based motorized equipment may be used if accompanied by a professionally drawn plan showing requirements of ~~DR-6.5.11~~ [AMC 19.72.445.B\(11\)](#) and other applicable SMP and development regulations, to re-establish native vegetation, and with prior written approval of the Shoreline Administrator. If nonnative tree(s) are removed in shoreline jurisdiction, it shall be replaced with native trees at a 1:1 ratio, in addition to the requirements within Title 16, Tree Preservation. The ground based motorized equipment must only be operated by a licensed professional, if within the shoreline setback.
10. Stabilization of exposed erosional surfaces along shorelines must, whenever feasible, utilize soil bioengineering techniques.
11. All shoreline development and activity must use effective measures to minimize increases in surface water runoff that may result from clearing and grading activity. The applicant must implement best management practices in compliance with the City's stormwater, clearing and grading regulations in [AMC 19.76 Stormwater](#) and [19.78 Clearing and Grading](#). Submittal requirements may include a plan addressing species removal, revegetation, irrigation, erosion and sedimentation control, and other methods of nearshore/riparian corridor protection in accordance with the City's Engineering Design Standards.
12. The Shoreline Administrator may require a performance bond as a condition of shoreline exemption or shoreline permit approval, to ensure compliance with this Master Program.

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Commented [AC67]: Duplicate of DR-6.5.12 below.

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[19.72.450 – Water Quality](#)

A. Regulations.

- 1. The bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, ~~must~~[will](#) not occur in shorelines without adequate secondary containment and an emergency spill response plan in place.
- 2. All development activities approved under this Shoreline Master Program must be designed and maintained consistent with the City's [Stormwater Management Regulations](#) and Engineering Design Standards.
- 3. As a condition of approval of a permit issued in accordance with this Master Program, the Shoreline Administrator may apply the following conditions to protect water quality:
 - a. The development, use or activity must utilize Best Management Practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff to protect the quality and quantity of surface and ground water. Such measures may include, but are not limited to, catch basins or settling ponds, installation and required

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maintenance of oil/water separators, biofiltration swales, interceptor drains and landscaped shoreline setbacks.

- b. The release of oil, chemicals (including pesticides and herbicides), fertilizer or hazardous materials onto land or into the water is prohibited within the shoreline jurisdiction.
- c. Equipment for the transportation, storage, handling, or application of such materials must be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment must be suspended until the deficiency has been satisfactorily corrected.

B. Pesticides and Fertilizers, Application of: (Pesticides include herbicides and algaecides)

- 1. Chemical pesticides using aerial spraying techniques within the shoreline jurisdiction, including over waterbodies or wetlands, must be prohibited unless specifically permitted by the Washington Departments of Agriculture or Public Health.
- 2. Pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary ~~must~~will be restricted in accordance with the a) state Department of Fish and Wildlife Management Recommendations b) the regulations of the state Department of Ecology as the Environmental Protection Agency's delegated authority and permitting body for the application of pesticides and herbicides to the waters of Washington State, and c) pesticide labels as per the authority of the state Department of Agriculture.
- 3. Pesticides ~~must~~will be used, handled, and disposed of in accordance with provisions of the Washington State Pesticide Application Act (RCW 17.21) and the Washington State Pesticide Control Act (RCW 15.58) to prevent contamination and sanitation problems.
- 4. Pesticide products commercially applied for terrestrial use usually include information on how far to stay away when applying near water. If there were a chance of a product entering the water, the product must be labeled for aquatic use. Only products approved by the Washington State Departments of Agriculture, and Ecology for aquatic use can be applied to Washington State waters. Activities to be conducted using these products must take place under one of the Department of Ecology's general NPDES permits for aquatic pesticides. In some cases labeling information for commercial products may indicate the need for larger shoreline setbacks and other restrictions when used near salmon-bearing waters.
- 5. Application of pesticides by commercial applicators requires licensing through the Washington State Department of Agriculture.
- 6. Integrated Pest Management (IPM) principles must be used when applying pesticides and herbicides within the shoreline jurisdiction of the SMP. Application of pesticides to areas outside of the SMP shoreline jurisdiction that might have an affect on this jurisdiction must also follow these practices. IPM can be defined as a coordinated decision-making and action process that uses the most appropriate pest control methods and strategy in an environmentally and economically sound manner to meet pest management objectives.

19.72.455 – Public Health & Safety

All shoreline developments must be located, designed, constructed, and operated so as not to be a hazard to public health and safety.

19.72.460 – View Protection/Aesthetics

- A. The protection of public views of the shoreline is an important shoreline management objective, although provisions of adequate shading of surf smelt spawning grounds must also be viewed as a priority. View protection can include preventing view blockage through height limitations or requiring aesthetic enhancement with landscaping. View protection does not justify the excessive removal of vegetation to create views or enhancing partial existing views. Retaining vegetation and “windowing” or other pruning techniques ~~must~~will always be preferred options over vegetation removal. Please refer to ~~Section 6.5~~AMC 19.72.445, Vegetation Conservation and ~~Chapter 7~~AMC 19.72.440, Public Access.
- B. New development must be located and designed to mitigate adverse impacts to views from public vista points.
- C. No permit ~~must~~will be issued pursuant to this Master Program for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where this Master Program does not prohibit the same and then only when overriding considerations of the public interest will be served. This protection does not extend to existing residences in previous phases of the proposed development. Private views of the shoreline, although considered during the review process, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase intervening property and/or seek other similar private means of minimizing view obstruction.
- D. Where lighted signs and illuminated areas are permitted, such illuminating devices must be shaded and directed so as to minimize, to the extent practicable, light and glare from negatively impacting neighboring properties, streets, public areas or water bodies
- E. New development, uses and activities must locate and screen trash and recycling receptacles, utility boxes, HVAC systems, electrical transformers, fences and other appurtenances to minimize interference with public views.

Article 5. Specific Use ~~Policies and~~ Development Regulations

19.72.510 – Introduction

- A. Development and use proposals may involve a number of *uses* and shoreline *modifications* and must comply with the policies and regulations for each. For example, uses associated with a new marina may include boat launches, industrial and port facilities, parking facilities, and recreational facilities. Construction of a marina may involve numerous shoreline modifications, including dredging, dredge spoil disposal, a jetty, and perhaps landfill. Each project is reviewed for compliance with the applicable “*use*” policies and regulations in these regulations and with the applicable “*modification*” policies and regulations in ~~Chapter 9~~AMC 19.72.610-660.

All shoreline developments and uses must comply with the standards of this Master Program whether or not a shoreline substantial development permit is required. Specific conditions that ensure such compliance may be attached as a condition of permit approval of a shoreline permit

or shoreline exemption.

Shoreline uses specifically listed as “prohibited” ~~shall~~will not be eligible for consideration as a Shoreline Variance or Shoreline Conditional Use Permit. If the use is not specifically prohibited, deviations from the minimum performance standards may be approved under a Shoreline Variance unless specifically stated otherwise.

The performance standards contained herein augment standards established through other land development regulations. Where conflict arises between these and other applicable controls, the regulations that provide more protection to the shoreline area ~~shall~~mustwill apply.

This ~~chapter~~article provides specific policies and regulations for the following types of specific uses. Refer to ~~Chapter 9~~AMC 19.72.610-660 for shoreline modifications:

1. Advertising and Signs
2. Agriculture
3. Aquaculture
4. Commercial Development
5. Industrial and Port Facilities
6. Marinas
7. Mining
8. Parking Facilities
9. Recreational Facilities
10. Residential Development
11. Scientific, Cultural and Education Facilities
12. Transportation Facilities
13. Utilities (Primary)

Uses not classified (i.e., “unclassified uses”) under this Master Program ~~shall~~will be processed as conditional uses.

19.72.515 – Advertising and Signs

A. Applicability. Outdoor advertising and signs include publicly displayed messages on signs, billboards, placards, or buildings that direct attention to promotion of a business, service, or product, or for public notice, transportation, or direction.

~~Outdoor advertising is regulated by the Anacortes sign code.~~

Commented [DN70]: This seems irrelevant with A.1 below

A. Development Regulations

1. Outdoor advertising and signs ~~shall~~must be in conformance with the City of Anacortes sign regulations codified in Chapter ~~19.67~~17 of the Anacortes Municipal Code.
2. Signs facing the water ~~shall~~will be limited to:
 - a. Directional signage associated with a marina or boatyard, and

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b. Signage on buildings with a waterside entrance.

3. Over-water signs or signs on floats or pilings (signs in all areas below OHWM) ~~shall~~must be limited to those that are a necessary part of approved in-water or over-water uses and ~~shall~~must generally be limited to signs for navigation, safety, identification, or public information.
4. Artificial lighting for signs ~~shall~~must be directed or beamed away from the water, public streets, or adjacent premises so as to not cause glare reflection that may constitute a traffic or boating hazard or nuisance.
5. Flashing and blinking signs are not permitted in the shoreline area. No sign or part thereof ~~shall~~will consist of banners, posters, streamers, spinners, or other similar moving devices.
6. No signs ~~shall~~will be constructed or operated in a manner that obscures or detracts from the effectiveness of navigational aids.
7. Billboards are prohibited within shoreline areas of the City and at upland locations which would obstruct existing visual access to the shorelines.
8. Free-standing signs are permitted provided they are no larger than thirty-two square feet in area on any one face.

19.72.520 – Agriculture

A. Agriculture includes the cultivation of soil, production of crops, or the raising of livestock.

B. Development Regulations.

- I. Agriculture in all shoreline areas is prohibited.

Commented [AC72]: Consistent with Shoreline Use Table AMC 19.72.365(A)

19.72.525 – Aquaculture

A. Introduction

Aquaculture is the farming or culturing of aquatic organisms. Aquaculture encompasses a wide variety of activities including hatching, seeding, planting, cultivating, feeding, raising, and harvesting of aquatic plants and animals. These activities may have widely differing impacts on the aquatic and shoreline environment.

Harvesting by Tribal entities is exempt from compliance with the City's Shoreline Master Program pursuant to Tribe treaties.

Aquaculture can be carried out in subtidal, intertidal, upland, and fresh water areas. The subtidal area is seaward of the line of extreme low tide. The intertidal area is seaward of the ordinary high water mark and landward of the line of extreme low tide. The upland area is landward of the ordinary high water mark.

B. Development Regulations

- I. Shellfish seeding/culturing may be permitted when conducted for native population recovery in accordance with a government/Tribal approved plan. All other aquaculture developments and activities, including ~~fish pens and~~ commercial shellfish seeding/culturing, are limited to the Urban, Urban Maritime, ~~shoreline environment and those adjacent~~ Aquatic designated areas over water only.

2. Aquaculture facilities ~~shall~~must be located and designed to avoid:
 - a. loss of ecological functions,
 - b. impacts to native eelgrass and macroalgae,
 - c. significant conflict with navigation and water-dependent uses,
 - d. the spreading of disease,
 - e. introduction of non-native species, or
 - f. impacts to shoreline aesthetic qualities.
3. Mitigation sequencing ~~shall~~must be followed.
4. Aquaculture that involves little or no substrate modification ~~shall~~must be given preference over those that involve substantial modification. The applicant/proponent ~~shall~~must demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible aquaculture operations at the site.
5. New aquatic species that are not previously cultivated in Washington State ~~shall~~will not be introduced into City saltwaters or freshwaters without prior written approval of the Director of the Washington State Department of Fish and Wildlife and the Director of the Washington Department of Health. In saltwaters, the City ~~shall~~will not issue permits for projects that include the introduction of such organisms until it has also received written comment from the Marine Resources Committee, and the local tribes, provided that such comment is received in a timely manner.
6. No processing of any aquaculture product, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms after harvest, ~~shall~~will occur in or over the water unless specifically approved by permit. All other processing and processing facilities ~~shall~~must be located on land and ~~shall~~will be subject to the policies and regulations of this SMP.
7. Aquaculture wastes ~~shall~~must be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48). No garbage, wastes or debris ~~shall~~must be allowed to accumulate at the site of any aquaculture operation.
8. In-water aquaculture is prohibited in the Aquatic Designation, except non-commercial aquaculture for recovery of a native population. Over-water aquaculture projects using legal above-water structures may be permitted, subject to the provisions under AMC 19.72.335, Aquatic. Applicants must include a narrative of their aquaculture proposal for a shoreline permit, consistent with the following:
 - a. Operations must maintain or improve overall water quality of the affected waterway, as applicable.
 - b. Identify antibiotics, vaccines, growth stimulants, anti-fouling agents or other chemicals the applicant anticipates using. Such materials must not be used until approval is obtained from all appropriate state and federal agencies, including but not limited to the U.S. Food and Drug Administration, the Washington State Department of Ecology, Fisheries and Wildlife, Agriculture and Department of Health.

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Commented [GL74]: Gap Analysis: Table 5-1 #3

- c. Identify noise generation associated with the project, including boat or vehicle traffic that will occur during anticipated regular operation.
- d. Subtidal, intertidal, floating, and upland structures and apparatus associated with the aquaculture proposal must be designed and maintained to avoid adverse shoreline ecological impact.
- e. Aquaculture use and development must be sited so that shading and other adverse impacts to existing eelgrass, kelp, or native shellfish beds are avoided, minimized, and mitigated consistent with AMC 19.72.525.B(3).
- f. For aquaculture projects using overwater structures, tool and other essential apparatus storage seaward of the OHWM where a pre-existing legal structure does not already exist must be limited to a container three (3) feet height, measured from the raft or adjacent pier surface.
 - i. Increases above three (3) feet in container height may be considered by the Shoreline Administrator without a shoreline variance, given a visual impacts analysis is provided by the applicant. A visual impact analysis can be prepared the applicant themselves, so long as it is substantially complete, to scale and has the proper photo point of references from nearby properties.
 - ii. Height limitations do not apply to materials and apparatus that are removed daily.
- g. Aquaculture equipment must be of sound construction, and contain the owners' identifying marks where feasible. Abandoned or unsafe structures and equipment must be promptly removed or repaired by the owner.

Fish net pens and rafts shall meet the following criteria in addition to the other applicable regulations of this section:

- a. ~~Fish net pens shall meet, at a minimum, State approved administrative guidelines for the management of net pen cultures. In the event there is a conflict in requirements, the more restrictive requirement shall prevail.~~
- b. ~~Fish net pens shall not occupy more than 2 surface acres of water area, excluding booming and anchoring requirements. Anchors that minimize disturbance to substrate, such as helical anchors, shall be employed. Such operations shall not use chemicals or antibiotics.~~
- c. ~~Net cleaning activities shall be conducted on a frequent enough basis so as not to violate state water quality standards. When feasible, the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing, or hand washing.~~
- 9. All floating and submerged aquaculture structures and facilities in navigable waters shall be marked in accordance with U.S. Coast Guard requirements. All geoduck aquaculture must adhere to the provisions of WAC 173-26-241(3)(b). The definition of aquaculture and its associated provisions does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.

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19.72.530 – Commercial Development

Commercial development means those uses and facilities that are involved in wholesale or retail trade or other business activities. Examples include, but are not limited to, hotels, motels, grocery stores,

restaurants, shops, offices, and indoor recreation facilities.

A. Development Regulations

1. Over-water construction of commercial uses is prohibited except as follows:
 - a. The development of docks, piers, boat launch ramps, or other similar shoreline access facilities for marinas, related facilities, and port facilities.
 - b. Reconstruction of existing over-water buildings and associated structures may be allowed to facilitate development of non-water-dependent commercial uses in the limited instances where they are auxiliary to and necessary in support of water-dependent uses, provided that reuse or reconstruction of the existing structure or the addition of new structures will result in no net loss of ecological functions and provide public access and ecological restoration.
 - c. Minor commercial uses that are accessory and clearly incidental to an allowed use may be provided on *publicly owned* docks and piers (e.g., espresso stand at the ferry terminal; authorized ticket sales for a temporary, marine-oriented event).
 - d. Minor commercial uses that are accessory and clearly incidental to an allowed use may be provided on privately owned or publicly owned marina docks and piers (e.g., marine fuel-related sales including boater convenience store, vessel-chartering services, boat maintenance and security services, marina security services, waiting area for float plane and/or ferry services).
2. Commercial development ~~shall~~will be subject to the design review provisions of the Anacortes ~~Zoning~~Unified Development Code (Title ~~19.7~~19.7 ~~AMC, specifically Chapters AMC 19.61, Block Frontage Standards, through AMC 19.69, Standards, Generally~~AMC 19.72.440, Shoreline Public Access, taking into consideration constitutional and statutory limitations. Such provisions could be the preservation of shoreline views, the establishment of public access easements across and to the shoreline, enhancement of an adjacent street-end or park or other consideration commensurate with the degree of impact caused by the development. Ecological restoration shallmust also be considered as potential mitigation of impacts to shoreline resources and values for all non-water-dependent commercial development unless demonstrated to be infeasible or inappropriate).
3. All commercial development/redevelopment requiring a Substantial Development or Conditional Use Permit within shoreline jurisdiction ~~shall~~must provide for public visual and physical access to the shoreline in accordance with ~~Chapter 7~~AMC 19.72.440, Shoreline Public Access, taking into consideration constitutional and statutory limitations. Such provisions could be the preservation of shoreline views, the establishment of public access easements across and to the shoreline, enhancement of an adjacent street-end or park or other consideration commensurate with the degree of impact caused by the development. Ecological restoration ~~shall~~must also be considered as potential mitigation of impacts to shoreline resources and values for all non-water-dependent commercial development unless demonstrated to be infeasible or inappropriate.
4. Bed and Breakfast establishments are required to meet the policies and regulations for both Residential and Commercial use.
5. Warehousing is permitted in shoreline areas as an accessory use only if it is auxiliary to and necessary in support of a water-dependent use.
6. Water-enjoyment and water-related commercial uses must be designed to avoid impacts to existing navigation, recreation, and public access.
7. Priority ~~shall~~must first be given to water-dependent commercial uses over non-water-dependent commercial uses; second, preference to water-related and water-enjoyment commercial uses over non-water-oriented commercial uses.

Commented [AC76]: Table 4-1 #9

8. Non-water-oriented commercial uses in shoreline jurisdiction ~~shall~~will be prohibited unless they meet the following criteria:
 - a. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
 - b. Navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
9. In areas designated for commercial use, non-water-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.

19.72.535 – Industrial and Port Facilities

A. Introduction

Industry applies to those businesses or uses involved in the production, processing, manufacturing, or fabrication of goods. Warehousing and storage of materials or products is considered part of the industrial process. Water-dependent industries are those that require location adjacent to the shoreline by reason of the intrinsic nature of their business. Ports are a specialized subcategory of general industrial use. Port facilities are centers of water-borne traffic and commerce. Industry and ports are both covered in this section.

Some port and industrial developments are often associated with a number of uses and modifications that are identified separately in this Master Program (e.g., parking, dredging). Each use activity and every type of shoreline modification should be carefully identified and reviewed for compliance with all applicable sections.

Port and industrial facilities are intensive and have the potential to negatively impact the shoreline environment. When impacts cannot be avoided, they must be mitigated to assure no net loss of the ecological function necessary to sustain shoreline resources. Please refer to ~~Chapter 6~~Article 4 (AMC 19.72.410-460), *Environmental Protection General Regulations*.

B. Development Regulations

I. General

- a. Preference ~~shall~~will be given to water-dependent industrial uses over non-water-dependent industrial uses; and second, give preference to water-related industrial uses over non-water-oriented industrial uses.
- b. Non-water-oriented industrial uses in shoreline jurisdiction ~~shall~~will be prohibited unless they meet the following criteria:
 - i. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
 - ii. Navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

In areas designated for industrial use, non-water-oriented industrial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.

- c. Only water-dependent industrial and water-dependent port facilities ~~shall~~will be permitted over water.
- d. Storage and/or disposal of industrial wastes are prohibited within shoreline jurisdiction, unless specifically listed herein.
- e. Solid waste disposal and solid waste disposal sites are prohibited within shoreline jurisdiction.
- f. The following uses may be permitted as a conditional use:
 - i. Bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, provided that:
 - (1) Secondary containment and an emergency spill response plan are included in the proposal.
 - (2) Alternate inland areas are unavailable.
 - (3) The storage is directly related to a water-dependent use.
 - ii. Wastewater treatment and reclamation systems accessory to a permitted use (also see "Utilities"), provided that:
 - (1) Alternate inland areas are unavailable and;
 - (2) The proposed location, design and operation are compatible with existing and planned water-oriented uses.

2. Design

- a. Industrial and port facilities ~~shall~~must be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and adjacent property owners, as well as adjacent shoreline or water uses. To this end, applications for industrial/port facilities must demonstrate conformance with the following criteria. The proposal ~~shall~~must:
 - i. Comply with all federal, state, regional, and local requirements regarding air and water quality.
 - ii. All new or expanded industrial development ~~shall~~must be set back and buffered from adjacent shoreline properties that are used for or zoned for non-industrial purposes. Such buffering or greenbelt ~~shall~~must include landscaping, shrubs, trees and native vegetation as found to be appropriate depending on the impact
 - iii. Maximize joint use of accessory facilities -industrial/port facilities ~~shall~~must be designed and operated to promote joint use of over-water and accessory facilities such as piers, docks, storage, and parking whenever practicable.
 - iv. Protect public views of harbor areas and other officially delineated vistas. Private views of the shoreline, although considered during the review process, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase intervening property and/or seek other similar private means of minimizing view obstruction.

- v. Make adequate provision for fire and safety hazards -
 - (1) The storage and handling of inflammable liquids, liquefied petroleum gases and explosives ~~shall~~must comply with rules and regulations falling under the jurisdiction of the City fire chief, the laws of the state and other local ordinances;
 - (2) Bulk storage of inflammable liquids below ground ~~shall~~will be permitted, and the tank ~~shall~~must be located not closer to the property line than the greatest dimension (diameter, length, or height of the tank).
 - (3) Adequate fire fighting, fire prevention and safety equipment ~~shall~~must be provided as necessary to handle materials stored or used on the site.
 - (4) Flammable/explosive/hazardous materials ~~shall~~must be kept removed from adjacent activities to a distance that is compatible with the potential danger involved.
 - (5) Provisions ~~shall~~must be made to minimize the probability of spills of fuel or other toxic substances and to handle accidental spills that occur.
 - (6) Emission of dangerous radioactivity ~~shall~~must be prohibited.
- vi. Prevent interference. - Provide for necessary shielding or other measures to prevent on-site mechanical or electrical equipment from interfering with the use of electrical apparatus off-site.
- vii. Exterior lighting ~~shall~~must not be used in such a manner that produces nuisance glare.
- viii. Noxious odors ~~shall~~must be eliminated to the extent practicable.
- ix. Assure no net loss of ecological functions.

3. Public Access

- a. Port and industrial facilities ~~shall~~must provide public access to shoreline areas in accordance with ~~Chapter 7~~AMC 19.72.440, Shoreline Public Access, taking into consideration constitutional and statutory limitations, public safety, health, and security. Where industrial use is proposed for location on land in public ownership, public access ~~shall~~must be required in the general vicinity of the impact. Such provisions could be the preservation of shoreline views, the establishment of public access easements across and to the shoreline, enhancement of an adjacent street-end or park or other consideration commensurate with the degree of impact caused by the development. In this regard the *Port of Anacortes' Integrated Approach to Marine Public Access, October 2003* is incorporated by reference into this SMP.
- b. The Port of Anacortes and City ~~shall~~must coordinate the cooperative multiple use of publicly owned piers, docks, and parking facilities.

19.72.540 – Marinas

A. Introduction

For the purpose of this ~~chapter~~article, marinas are defined as facilities that provide launching, storage, supplies, moorage, and other services for five or more pleasure and commercial watercraft. Commercial development, not accessory to the operation of a marina, ~~shall~~must comply with ~~Section 8.5~~AMC 19.72.530 "Commercial Development." Shoreline modifications associated with marinas, including docks, piers, and floats, ~~shall~~must also comply with ~~Chapter 9~~Article 6 (AMC

[19.72.610-660](#) Specific Shoreline Modifications ~~Policies and~~ Development Regulations. Marinas are restricted to suitable environmental designations (Table ~~5-1~~ [19.72.365\(A\)](#)).

B. Development Regulations

- I. The following uses ~~shall~~[must](#) be prohibited at marinas:
 - a. Floating buildings, except that floating shelters for boats may be allowed in a marina for community and/or youth boating programs operated by nonprofit organization or public agencies.
2. Marina expansions, new mooring buoy fields, and new marinas, ~~shall~~[must](#) be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and adjacent residential property owners, as well as adjacent shoreline or water uses. To this end, applications for such facilities must demonstrate conformance with the following criteria. The proposal ~~shall~~[must](#):
 - a. Locate with regard to favorable conditions related to wind, current, bathymetrics, and for overnight moorage facilities, adequate flushing action.
 - b. Comply with all federal, state, regional, and local requirements regarding water quality, including, but not limited to, Department of Health standards and environmental policies and regulations contained in ~~Chapter 6~~ [Article 4 \(AMC 19.72.410-460\)](#), *Environmental Protection General Regulations*.
 - c. Provide for adequate upland support facilities (e.g., restrooms, dumpsters, etc.)
 - d. Provide accessory parking and loading areas - said facilities ~~shall~~[must](#) be located well away from the water's edge and ~~shall~~[must](#) be designed in accordance with ~~Section 8.9~~ [AMC 19.72.550](#), *Parking Facilities*.
 - e. Facilitate orderly launching, retrieval, and storage of boats as well as circulation of vehicles and pedestrians in the vicinity of the marina.
 - f. Marinas ~~shall~~[must](#) make provisions to minimize the probability of fuel spills during handling or storage.
 - g. Make provisions to handle accidental spills that do occur.
 - h. Except for mooring buoy fields, provide pump-out and on-shore sewage and waste disposal facilities, with or without charge.
 - i. Ensure that navigation rights are protected.
 - j. Demonstrate compliance with mitigation sequencing techniques. When impacts cannot be avoided, impacts must be mitigated to assure no-net-loss of ecological function necessary to sustain shoreline resources.
3. Marina development ~~shall~~[must](#) comply with all applicable local, state, and federal regulations and requirements, including those of the Washington State Department of Fish and Wildlife.
4. Placement of breakwaters, jetties, groins, bulkheads, and landfills, and dredging activities associated with marina construction ~~shall~~[must](#) comply with regulations contained in this Master Program pertaining to those activities.
5. Marinas ~~shall~~[must](#) provide parking facilities adequate to meet demand/need analysis projections.

6. Marinas ~~shall~~must be supplied with restroom and solid waste receptacles to accommodate marina users, and ~~shall~~must have facilities and established procedures for the discharge of solid waste or sewage, other than discharge into the water.
7. Marinas ~~shall~~must have facilities and established procedures for the disposal or discarding of fish or shellfish cleaning waste, scrapfish, viscera, or unused bait in or near the marina.
8. Marinas ~~shall~~must have facilities and established procedures for the containment and recovery of spilled petroleum or toxic projects.
9. Marinas ~~shall~~must provide view points and regulated pedestrian access areas which will allow the public to view marina activity.
10. Marinas ~~shall~~must provide pump-out, holding and/or treatment facilities for sewage contained on boats or vessels.
11. Marinas ~~shall~~must implement a landscaping plan which addresses impacts on adjacent properties, views from upland areas, and topography of the area.
12. Accessory uses at marinas ~~shall~~must be limited to those uses that are water-dependent or directly serve needs of marina users and ~~shall~~must comply with the regulations contained in the Master Program pertaining to those activities.
13. Over-the-water parking facilities are prohibited.
14. Space for transient moorage ~~shall~~must be encouraged.
15. Applicants for new marinas and marina expansions must demonstrate the following:
 - a. The proposed design will meet the State Water Quality Standards.
 - b. The proposed design will minimize significant interference with geohydraulic processes and disruption of existing shore forms;
 - c. The proposed design will minimize impediments to fish migration;
 - d. The proposed facility will not impact shellfish or finfish habitat, including spawning, feeding and rearing areas, unless mitigation consistent with the requirements of the mitigation element of the *Revised Integrated Fidalgo Bay Plan & EIS*, 2000 has been provided.
16. Marina construction ~~shall~~must conform to the tabular requirements established in Table [19.72.280\(B\)5-2](#) except as provided below:
 - a. Structures for upland boat storage ~~shall~~must comply with height, bulk and setback requirements for buildings in the underlying zone.
17. Viewpoints and public access to new and expanded marina areas ~~shall~~must be included in marina plan and design, particularly where water-enjoyment uses are associated.

19.72.545 – Mining

A. Introduction

Mining is the removal and primary processing of naturally occurring materials from the earth for economic use. For purposes of this Master Program, "processing" includes screening, crushing, and stockpiling of materials removed from the site. Mining activities also include in-water dredging activities related to mineral extraction. Processing does not include general manufacturing, such as

the manufacture of concrete. Removal of intertidal/subtidal bottom materials for beach nourishment purposes or habitat restoration purposes is not to be considered mining.

B. Development Regulations

- I. Mining in all shoreline areas is prohibited.

19.72.550 – Parking Facilities

A. Introduction

Parking is the use of land for storage of motor vehicles, motorized equipment, or accessory units, such as trailers. Land used for this purpose is leveled, cleared, and often covered with an impermeable surface. Parking includes areas for scenic vista parking.

B. Development Regulations

Parking for specific land use activities within the City of Anacortes is subject to the requirements and standards set forth in the Anacortes Zoning Code, in addition to the regulations of this section.

- I. Parking in shoreline areas must directly serve an approved shoreline use.
2. Parking as a principal use (i.e., not accessory to an authorized use) is prohibited, except when provided as part of a public scenic vista.
3. Parking ~~shall~~must comply with the following design standards as applicable (e.g., items a, b, e and f would not apply to over-water ferry terminal parking):
 - a. Parking ~~shall~~must be located on the landward side of the development unless contained within a permitted structure.
 - b. Where there is no existing structure, parking ~~shall~~must extend no closer to the shoreline than a permitted structure.
 - c. The design and construction of parking facilities ~~shall~~must assure that surface water runoff will not pollute adjacent waters or cause soil or beach erosion. Oil separators and detention facilities ~~shall~~must be required for new parking facilities. Alternatives to conventional storm water treatment, such as use of pervious materials, ~~shall~~must be considered where appropriate in order to minimize impacts due to runoff and/or the need for storm water treatment.
 - d. Security lighting associated with parking facilities ~~shall~~must be beamed, hooded, or directed so as to not cause nuisance glare.
 - e. Parking facilities ~~shall~~must be separated from residential, recreation, and natural areas (e.g., the shoreline) by landscaping and/or screening in accordance with the Parking Facilities Landscaping requirements of the Anacortes Municipal Code, Title 19.7. The landscaping ~~shall~~will, preferably, consist of native vegetation. The requirement for screening may be waived or modified by the Shoreline Administrator, where screening would obstruct a significant view from public property or public roadway or to address public safety concerns.
 - f. All landscaping must be maintained in a neat and orderly manner. In no event ~~shall~~will such landscape areas be used for the storage of materials or parking of automobiles, or recreational or other vehicles.
 - g. Vista parking facilities ~~shall~~must include a significant public view and provide recreational opportunities such as picnic tables or viewing benches.

19.72.555 – Recreational Facilities

A. Introduction

Recreational development provides opportunities for play, sports, relaxation, amusement, or contemplation. It includes facilities for passive recreational activities, such as hiking, photography, viewing, and fishing. It also includes facilities for active or more intensive uses such as parks, campgrounds, public and private marinas, and golf courses. This section applies to both publicly- and privately-owned shoreline facilities intended for use by the public or a private club, group, association, or individual. Commercial recreational development must be consistent with the provisions of this section and the provisions of ~~Section 8.5~~ [AMC 19.72.53.530](#) for commercial uses.

This Master Program gives priority to recreational development that is primarily related to access to, enjoyment of, and use of the water and shorelines of the state as reflected in the Table ~~5-1~~ [19.72.365\(A\)](#) Shoreline Use and Modification Matrix.

B. Development Regulations

1. Table [19.72.365\(A\)](#) ~~5-1~~ generally identifies allowed and prohibited recreation developments by environment designation. In addition, the following recreational uses and developments are prohibited:
 - a. Use of recreational off-road vehicles in shoreline areas, except by public agencies for maintenance, operations and emergency services;
2. Recreational facilities ~~shall~~[will](#) make adequate provisions for:
 - a. Vehicular and pedestrian access, both on-site and off-site;
 - b. Vehicular traffic, both inside and outside the facility;
 - c. Vehicular parking;
 - d. Water supply, sewage disposal, and garbage collection;
 - e. The control of fires both within recreational facilities and between recreational facilities and adjacent private or public lands;
 - f. The prevention of overflows and trespasses onto adjacent properties;
 - g. Screening, planting strips, fences, and signs to prevent park overflow and to protect the value and enjoyment of adjacent or nearby private or public properties;
 - h. Enforcement of laws and regulations associated with use of the facilities being proposed;
 - i. Security; and
 - j. Maintenance.
3. Valuable shoreline resources and fragile or unique areas, such as wetlands and accretion shore forms, ~~shall~~[must](#) be used only for non-intensive recreation activities.
4. Waterward of the ordinary high water mark, no recreational buildings or structures ~~shall~~[will](#) be built, except water-dependent and/or water-enjoyment structures as follows: docks, bridges, piers, public boat launches, marinas, and viewing platforms.
5. For recreation developments, such as playing fields that require the use of fertilizers, pesticides, or other chemicals, the applicant ~~shall~~[must](#) submit plans demonstrating the methods to be used

to prevent these chemical applications and resultant leachate from entering adjacent water bodies and wetlands. Natural vegetation planting strips ~~shall~~will be required between the shoreline waters and recreation developments that use fertilizers, pesticides, or other chemicals. The planting strips ~~shall~~must not be less than fifty (50) feet wide, measured on a horizontal plane, perpendicular to the edge of the ordinary high water mark. The proponent ~~shall~~will also be required to leave a chemical-free swath at least one hundred (100) feet in width next to waterbodies and wetlands.

6. Encourage recreational facilities to provide signage and enforce regulations that prohibit tree cutting and limit the taking of marine life, driftwood, and the like.
7. Signs associated with recreational facilities ~~shall~~must be kept to a minimum in number and size and ~~shall~~will be erected as informational or directional aids only.

19.72.560 – Residential Development

A. Introduction

Residential development refers to one or more buildings, structures, lots, parcels, or portions of parcels that are used or intended to be used to provide a dwelling for human beings. Residential development includes single-family residences, duplexes, other detached dwellings, multifamily residences, apartments, townhouses, mobile home parks, group housing, condominiums, subdivisions, planned unit developments, and short subdivisions. Residential development also includes accessory uses and structures such as garages, sheds, tennis courts, swimming pools, driveways, parking areas, fences, cabanas, and saunas, but not guest cottages, when allowed by the underlying zoning. Residential development does not include hotels, motels, or camping facilities. Bed and Breakfast establishments proposed within a Residential zoning district are required to meet the policies and regulations for both Residential and Commercial use.

Note: A Substantial Development Permit may not be required for construction of a single-family residence by an owner, lessee, or contract purchaser for his own use or the use of his family. However, such construction and all normal appurtenant structures must otherwise conform to this Master Program and obtain a Letter of Exemption. In addition, when applicable, all residential development is subject to the variance and conditional use requirements of this Master Program. For example, a Variance will be required for any residential development that proposes to locate within the shoreline environment setbacks established in ~~Chapter 5~~Article 3 (AMC 19.72.310-365) of this Master Program.

Uses and facilities associated with residential development, which are identified as separate use activities or modifications in this Master Program, such as clearing, grading and fill, are subject to the regulations established for those uses in addition to this section.

B. Development Regulations

1. Clearing and grading associated with a single-family residence may be exempted from the Shoreline Substantial Development Permit requirement, provided the conditions identified in ~~Section 2.4~~AMC 19.72.030(E)(7) are met.
2. Residential and accessory structures, including floating homes (except that floating shelters for boats may be allowed in a marina for community and/or youth boating programs operated by nonprofit organization or public agencies), but not including permitted piers, docks, or floats, ~~shall~~must not be located in areas waterward of the ordinary high water mark, areas subject to flooding or tidal inundation, or within wetlands, habitat conservation areas, flood hazard areas, landslide hazard areas or their respective buffers.

3. Residential development ~~shall~~must be:

- a. Located and designed to avoid the need for structural shore defense and flood protection works in the foreseeable future.
- b. Designed to minimize potential conflicts with the use of adjacent public lands and areas of public access. This may include providing a physical separation to reinforce the distinction between public and private space, achieved by providing adequate space, through screening with landscape planting or fences, or other means.

4. Subdivisions:

- a. ~~Shall~~Must comply with local plans, codes, and ordinances
- b. ~~Shall~~Must be designed to exemplify the definition and policy of the applicable shoreline designation as well as the environmental and physical capabilities of the subject site. Parcels ~~shall~~must not be created for residential construction that would require shoreline stabilization for the foreseeable future.
- c. ~~Shall~~Must be prohibited if flood control or shoreline protection measures are necessary to create a residential lot or site area.
- d. May be required to cluster residential units and structures to avoid wetlands, habitat conservation areas or landslide hazards that are located on the development site.
- e. ~~Shall~~Must be designed to minimize potential conflicts with the use of adjacent public lands and areas of public access. This may include providing a physical separation to reinforce the distinction between public and private space, achieved by providing adequate space, through screening with landscape planting or fences, or other means.
- f. ~~Shall~~Must comply with the applicable policies and performance standards of this Master Program, with regard to roads, utilities, and other improvements.
- g. Plats that preclude or reduce the need for roadways are encouraged.
- h. New subdivided lots ~~shall~~must be designed to prevent the loss of ecological functions at full build-out; ~~shall~~must prevent the need for new shoreline stabilization or flood hazard reduction measures; and ~~shall~~must be consistent with applicable SMP environment designations and standards.

5. Public Access

- a. Public access to publicly owned shorelines ~~shall~~must be maintained.
- b. Public access improvements ~~shall~~must be designed to include measures to prevent overflow usage from common and public areas upon privately owned shore lands and uplands. Appropriate measures may include fences or landscaping.
- c. Developments of more than four (4) dwelling units adjacent to the waterfront ~~shall~~must dedicate, improve, and provide maintenance provisions for a pedestrian easement that provides area sufficient to ensure usable access to the shoreline for all residents of the development and the general public. When required, public access easements ~~shall~~must be a minimum of twenty-five (25) feet in width and ~~shall~~must comply with the public access standards contained in this Master Program (see ~~Chapter 7~~AMC 19.72.440, "Shoreline Public Access").

- d. New construction or expansion of existing piers, bulkheads or fills to provide for over-water residential development is prohibited.
 - e. Single-family subdivisions and multi-family residences on waterfront property ~~shall~~must provide for regulated public access to the water or to water view sites.
 - f. Liveaboards are restricted to marinas with facilities adequate to accommodate them.
6. Environmental Protection

In addition to all relevant provisions of ~~Chapter 6~~Article 4 (AMC 19.72.410-460), residential development ~~shall~~must comply with the following standards:

- a. Engineered storm drainage and treatment facilities ~~shall~~will be required by the City for proposals of five (5) or more dwellings. Drainage facilities ~~shall~~must be separate from sewage disposal facilities. Drainage systems ~~shall~~must include provisions to prevent the direct entry of uncontrolled and untreated surface water runoff into receiving waters. Such provisions may include retention ponds, vaults, vegetated swales, and artificial wetlands.
- b. Developments containing wetlands ~~shall~~must use those areas only in association with parks, open space, or passive recreational facilities. Such use ~~shall~~must be consistent with the ~~shoreline-specific~~City's Critical Areas Regulations referenced under AMC 19.72.435, Critical Areas - Ordinance No. XX, dated XX, found in Appendix A-AMC 19.70, in addition to the applicable provisions of this Master Program.
- c. Alteration of topography for building sites, access roads, and utilities ~~shall~~must be conducted in compliance with the applicable policies and performance standards of this Master Program.
- d. Sewage disposal systems ~~shall~~must not be located within wetlands, habitat conservation areas, landslide hazard areas, or their buffers, or in the floodplain.

Commented [AC77]: Table 3-1, #1

19.72.565 – Scientific, Cultural and Educational Facilities

A. Introduction

Scientific, cultural and educational facilities include those sites, structures, or facilities that provide unique insight into our natural or cultural heritage.

B. Development Regulations

- 1. No development or substantial development ~~shall~~must be undertaken with regard to a site or structure that has probable historical, scientific, or archaeological significance until an evaluation of the site or structure has been made by an authority judged competent in such matters by the Shoreline Administrator.
- 2. All feasible means ~~shall~~must be employed to ensure that data, structures, and sites having historical, scientific, educational, or archaeological significance are extracted, preserved, or used in a manner commensurate with their importance.
- 3. Consistent with constitutional and statutory limitations, public and private developments ~~shall~~must be located and designed to prevent destruction and alteration of sites having significant historic, cultural, scientific, or educational value.
- 4. All shoreline permits ~~shall~~must contain provisions that require developers to immediately stop work if cultural resources protected by state law are uncovered during excavation. In such

cases, the developer ~~shall~~must provide for site inspection and evaluation by a professional archaeologist.

5. The establishment, restoration, or revitalization of historical, archaeological, scientific, or educational facilities ~~shall~~must be done in such a manner that would cause minimal disturbance to adjacent properties as well as natural features of the shoreline.
6. Excavation of Indian artifacts ~~shall~~must be conducted in compliance with the Washington State Archaeological Sites and Resources Act (RCW 27.53).
7. Excavation activities ~~shall~~must be conducted in compliance with the applicable policies and standards of this Master Program.
8. Archeological and historic site development is permitted as a conditional use in shoreline areas designated Natural subject to relevant shoreline regulations.
9. Such developments which are intended for commercial purposes ~~shall~~must comply with policies and regulations for Commercial Development.
10. Evaluations of archeological finds protected by state law ~~shall~~must be done promptly by a qualified archeologist and ~~shall~~must be done so as to avoid excessive delays to construction.
11. All permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian Tribes.

19.72.570 – Transportation Facilities

A. Introduction

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, ferry terminals, railroad facilities, boat and floatplane terminals, and parking. Under this Master Program, bikeways, walkways and trails are addressed under ~~Section 8.10~~AMC 19.72.555 "Recreational Facilities".

B. Development Regulations

1. When practicable, major highways and railroads ~~shall~~must be located away from shoreline areas.
2. Whenever possible, roads ~~shall~~must be located on natural benches, ridge tops, or other areas where alteration of natural features such as soils will be minimal.
3. Roads ~~shall~~must be located to avoid critical areas and their buffers. Fill for transportation facility development is prohibited in water bodies, associated wetlands and their buffers, except when there is a demonstrated purpose and need, and alternatives to accomplish the same purpose have been shown to be infeasible. Such fill may be permitted by a Conditional Use Permit and must comply with the provisions of ~~Section 9.7~~AMC 19.72.640, Fills.
4. Roads and waterway crossings ~~shall~~will be prohibited within wetlands or critical fish and wildlife conservation areas and associated buffers except when all upland alternatives have been proven impracticable and the transportation facilities are necessary to support uses consistent with this program. When permitted, these facilities ~~shall~~must be:
 - a. The minimum width to accommodate the anticipated use.
 - b. Designed so the integrity of the naturally occurring geohydraulic process is maintained.

- c. Designed to provide minimal disturbance to banks.
- 5. Culverts, bridges and similar devices ~~shall~~must be designed to pass water, sediment, and debris loads anticipated under appropriate hydraulic analysis and ~~shall~~will not impede the migration of anadromous fish.
- 6. All roads and drainage systems ~~shall~~must be maintained to prevent erosion and/or water quality degradation.
- 7. Mechanical apparatus or hand removal, rather than chemicals, ~~shall~~must be used for brush clearing maintenance wherever practicable.
- 8. Herbicides used for maintenance along roads and drainage systems ~~shall~~must follow the performance standard outlined in ~~Section 6.4~~AMC 19.72.425, Environmental Elements.
- 9. To the greatest extent practicable, organic, nontoxic, methods and BMPs should be utilized for maintenance along roads and drainage systems in the vicinity of critical fish and wildlife habitats.
- 10. Street vacations ~~shall~~must comply with applicable state laws, including statutory provisions relating to vacations of right of way which abut a body of salt or fresh water.
- 11. Limited food and retail service may be allowed as an accessory use within the waiting area of a publicly owned and operated ferry terminal. Said facilities ~~shall~~must be limited in size to serve passengers and employees.
- 12. Roads and Railroads
 - a. New railroad and road developments, to the extent consistent with public safety, may be required to provide public access opportunities, and to maintain existing pedestrian access to shorelines.
 - b. Road and railroad development ~~shall~~must be coordinated with the various governing bodies, and where possible, development ~~shall~~must be designed to accommodate varied modes of transportation.
 - c. Design of roadways on shorelines ~~shall~~must provide for pedestrian and bicycle routes.

19.72.575 – Utilities (Primary)

A. Introduction

Utilities are services and facilities that produce, transmit, carry, store, process, or dispose of electric power, water, sewage, communications, oil, gas, stormwater, and the like. The provisions in this section apply to primary use and activities such as sewage treatment plants, sewer lift pumps, stormwater outfalls and fuel storage facilities. On-site utility features serving a primary use, such as water, sewer or gas line to a residence, are "accessory utilities" and ~~shall~~will be reviewed as appurtenances to the primary use (in this example, the residential use).

Utilities are further described as major and minor to allow for a simplified permit process for minor utility improvements. As used in this Master Program, major utilities include substations, pump stations, treatment plants, sanitary sewer outfalls, regional stormwater outfalls, electrical transmission lines greater than 55,000 volts, water, sewer or storm drainage mains greater than eight (8) inches in diameter, major recycling facilities (as defined by the AMC), gas and petroleum transmission lines, macro wireless facilities, and submarine telecommunications cables. Minor utilities include local public water, minor storm sewer outfalls, electric, minor recycling facilities (as defined by the AMC), natural gas distribution, public sewer collection, cable and telephone service, micro

and mini wireless facilities, and appurtenances.

B. Development Regulations

1. General

- a. Utility development ~~shall~~must, through coordination with local government agencies, provide for compatible, multiple uses of sites and rights-of-way.
- b. Utilities ~~shall~~must be designed and installed to meet future needs when possible.
- c. Personal wireless facilities ~~shall~~must comply with the City's "Wireless Communications Towers and Antennas" ordinance codified in Chapter 17 of the Anacortes Municipal Code.

2. Uses

- a. The following utilities are prohibited within the shoreline jurisdiction:
 - i. Solid waste disposal and transfer facilities, other than minor recycling facilities as defined by the AMC.
 - ii. Fuel storage facilities (excepting fuel storage that is accessory to a permitted use).
 - iii. Use of creosote or pentachlorophenol treated timber is prohibited.
- b. Minor utilities are allowed as a permitted use provided that, within the Natural and Conservancy designations, it has been determined that no other feasible alternative exists
- c. Upgrades to existing major utilities are permitted.
- d. The following new major utility facilities may be permitted in shoreline jurisdiction if it can be shown that no practicable alternative exists outside of shoreline jurisdiction.
 - i. Electrical energy generating plants, substations, and transmission lines greater than 55,000 volts;
 - ii. Sanitary sewer outfalls;
 - iii. Sewage system mains, interceptors, pump stations, and treatment plants;
 - iv. Storm drainage mains and regional outfalls;
 - v. Submarine telecommunications cables; and
 - vi. Water lines and water system treatment plants.
- e. All impacts to fish and wildlife resources ~~shall~~must be fully mitigated.

3. Applications

- a. Applications for the installation of major utility facilities ~~shall~~must include the following:
 - i. Description of the proposed facilities;
 - ii. Reasons why the utility facility requires a shoreline location;
 - iii. Alternative locations considered and reasons for their elimination;
 - iv. Location of other utility facilities in the vicinity of the proposed project and any plans to include the other types of utilities in the project;

- v. Plans for reclamation of areas disturbed both during construction and following decommissioning and/or completion of the useful life of the utility;
- vi. Plans for control of erosion and turbidity during construction and operation; and
- vii. Identification of any possibility for locating the proposed facility at another existing utility facility site or within an existing utility right-of-way.

4. Location

- a. Utilities ~~shall~~must be located adjacent to or within existing utility or circulation easements or rights-of-way whenever feasible. Joint use of rights-of-way and corridors is encouraged.
- b. Sewage treatment, water reclamation, desalinization, and power plants ~~shall~~must be located to minimize interference with adjacent uses of the water and shore lands.

5. Public Access

When feasible, utility development ~~shall~~must include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with utility operations, or endanger the public health, safety, and welfare. Public access easements ~~shall~~must be a minimum of twenty-five (25) feet in width and ~~shall~~must comply with the public access standards contained in this Master Program (see [AMC 19.72.440](#)~~Chapter 7~~, "Public Access").

6. Environmental Protection

In addition to the general environmental policies and regulations of ~~Chapter 6~~[AMC 19.72.410-460](#), utilities ~~shall~~must comply with the following standards:

- a. Utilities ~~shall~~must be located, designed, constructed, and operated so as to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses.
- b. To protect aesthetic qualities of the shoreline, new utility lines including electricity, communications, and fuel lines ~~shall~~must be located underground, except where the presence of bedrock or other obstructions make such placement infeasible.
- c. Utility developments ~~shall~~must be located and designed so as to avoid, to the extent practicable, the need for any structural or artificial shoreline modification works for the life of the project.
- d. Utilities should be avoided in floodplains to the greatest extent practicable; if necessary, flood protection structures ~~shall~~must not increase flood hazards in other areas along the waterbody.
- e. Underwater construction of utilities or construction in adjacent wetlands ~~shall~~must be timed to avoid fish and wildlife migratory and spawning periods.
- f. Installation of utilities ~~shall~~must assure the prevention of siltation or beach erosion.
- g. Upon completion of installation/maintenance of utilities in shorelines, the land/substrate ~~shall~~must be restored to its pre-project configuration, replanted with native species as appropriate, and be provided with maintenance care until the newly planted vegetation is established.

- h. When feasible, utilities within the shoreline area ~~shall~~will be placed underground, and utility corridors ~~shall~~will be used for shoreline access.
- i. Undergrounding of utilities across a water body ~~shall~~must comply with all applicable local, state, and federal agency regulations and requirements; a shoreline permit is required.

Article 6. Specific Shoreline Modification ~~Policies and~~ Development Regulations

19.72.610 – Applicability

~~What is a shoreline modification?~~

- A. Shoreline modification activities are structures or actions that permanently change the physical configuration or quality of the shoreline, particularly at the point where land and water meet. Shoreline modifications include, but are not limited to, structures such as dikes, breakwaters, weirs, dredge basins, fill, bulkheads and piers and actions such as clearing, grading, and removing vegetation. Generally, shoreline modifications are undertaken for the following reasons:
 - 1. To prepare for a shoreline use;
 - 2. To support an upland use; or
 - 3. To provide shoreline stabilization or defense from erosion.
- B. A single shoreline use may require several different shoreline modification activities. For example, a new boat storage yard may require clearing and grading of the upland yard and construction of a jetty and docks in the water.
- C. Proposals for shoreline modifications are to be reviewed for compliance with the applicable “use” policies and regulations in ~~Chapter 8~~AMC 19.72.510-575 and the applicable “modification” policies and regulations of this ~~Chapter~~Article.
- D. Shoreline modifications listed as “prohibited” are not eligible for consideration as a Shoreline Variance. Deviations from the minimum performance standards may be approved under a Shoreline Variance unless specifically stated otherwise.

19.72.615 – General Regulations

- A. Regulations applicable to all shoreline modifications
 - 1. Shoreline modification activities that do not support a permitted shoreline use are considered “speculative” and are prohibited by this Master Program, unless it can be demonstrated, to the satisfaction of the Shoreline Administrator that such activities are necessary and in the public interest for the maintenance of shoreline environmental resource values.

19.72.620 – Boat Launches

- A. Boat launches are slabs, pads, planks, rails, cranes or graded slopes used for launching boats by means of a trailer, hand, or mechanical device.
- A. Development Regulations
 - 1. General

- a. Boat launches for Port, commercial, or public recreational uses may be permitted in all shoreline environments except Natural. Boat launches in the Conservancy and Shoreline Residential environments require a Shoreline Conditional Use Permit.
- b. Launches associated with single-family residences for private use are prohibited.

2. Design Standards

- a. Boat launches and ancillary facilities ~~shall~~must be located, designed, constructed, and operated as to:
 - i. Minimize adverse affects of fish, shellfish, wildlife, water quality, and existing geohydraulic shoreline and stream processes. When impacts cannot be avoided, impacts must be mitigated to assure no-net-loss of ecological function necessary to sustain shoreline resources;
 - ii. Be clearly separated from nearby swimming areas;
 - iii. Provide adequate on-shore sewage and waste disposal facilities and a means for effective operation; and
 - iv. Be compatible with adjacent uses and avoid or mitigate aesthetic impacts.
 - v. Ensure that navigation rights are protected.
 - vi. Not impede the along shore flow of sand and gravel.
- b. Associated docks and floats ~~shall~~must conform to the applicable policies and performance standards of this Master Program.
- c. Associated parking areas ~~shall~~must:
 - i. Comply with the City of Anacortes' Parking Code;
 - ii. Provide adequate off-road parking and loading areas;
 - iii. Facilitate orderly launching and retrieval of boats, as well as the movement of vehicles and trailers in the launching area;
 - iv. Provide ample room for the handling and maneuvering of boat trailers;
 - v. Be located at least 25 feet landward of the OHWM; and
 - vi. Ensure that surface runoff does not pollute adjacent waters or cause soil or beach erosion. Low Impact Development provisions should be emphasized.
- d. Preferred ramp designs, in order of priority, are:
 - i. Open grid designs with minimum coverage of beach substrate.
 - ii. Seasonal ramps that can be removed and stored upland.
 - iii. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in beach profile.
- e. Ramps ~~shall~~must be placed and maintained near flush with the foreshore slope.
- f. Maintenance and repair of existing ramps ~~shall~~must minimize impacts to shoreline areas.

19.72.625 – Breakwaters

A. Introduction

Breakwaters are protective structures usually built offshore and aligned parallel to the shore to protect development and uses associated with beaches, bluffs, dunes, moorages and developed harbor areas from wave action. However, because offshore breakwaters are costly to build, they are seldom constructed to protect natural features alone, but are generally constructed for navigational purposes. Breakwaters can be either rigid or floating and may be connected to the shore or not. Rigid breakwaters, which are usually constructed of riprap or rock, have both beneficial and detrimental effects on the shore. All breakwaters eliminate wave action and thus protect the shore or structures immediately behind them. Breakwaters along Anacortes' shorelines are intended primarily to protect waterfront industrial activity and recreational activity (pleasure boat moorage).

The following policies are provided as a guide to future breakwater activity along Anacortes' shoreline:

B. Regulations

1. Breakwater design and construction should be such that alterations to the movement of sand, circulation of water, and biological communities are minimized and mitigated.
2. Applications for breakwaters ~~shall~~must provide the following information:
 - a. Purpose of breakwater
 - b. Construction material
 - c. Method of construction
 - d. Direction of net long shore drift (when appropriate)
 - e. Seasonal wind data
3. The City ~~shall~~must require sufficient geotechnical, hydrological, and biological studies to analyze the impacts of the proposal.
4. Design considerations:
 - a. Breakwaters ~~shall~~must minimize alterations to shore sand and gravel transport unless such impediment is found to be beneficial. The effect of proposed breakwaters on sand movement ~~shall~~must be evaluated during permit review.
 - b. Breakwaters ~~shall~~must meet requirements of state and federal agencies with jurisdiction over in-water construction.
 - c. New or expanded breakwaters ~~shall~~must be designed by a registered civil engineer with expertise in such design.
 - d. Breakwaters ~~shall~~must be designed and constructed in a manner that minimizes significant adverse impacts on water circulation and aquatic life. The design ~~shall~~must also minimize impediments to navigation and to visual access to the shoreline.
 - e. Floating breakwaters ~~shall~~must be preferred over solid breakwaters where they can withstand anticipated wave action.

5. A Conditional Use Permit ~~shall~~will be required for construction or expansion of a breakwater, except for those structures installed to protect or restore ecological functions.
6. Breakwaters ~~shall~~will be allowed only for water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
7. The design and construction of breakwaters ~~shall~~must address impacts to, and protect, ecological functions and critical areas. Mitigation sequencing and appropriate mitigation ~~shall~~will be required.

19.72.630 – Docks, Piers and Floats

A. Development Regulations

1. The following dock, pier, and float developments are prohibited in the shoreline jurisdiction:
 - a. Piers, docks, boat houses, and floats used for residential purposes. Boats that are occupied ~~shall~~will not be permitted to moor at piers, docks, or floats longer than three (3) days unless pump-out facilities are available.
 - b. Fill waterward of the ordinary high water mark or within a wetland to accommodate a dock, pier, or float.
 - c. Docks, piers, and floats associated with the upland Natural environment designation.
 - d. Docks, piers, and floats associated with single-family residences located outside of Flounder Bay along Burrow's Bay and Cap Sante.
 - e. Piers, docks, floats and other overwater structures associated with multi-family uses serving less than five watercraft.
2. Prior to granting a permit for a pier, dock or float, the effects of the structure upon adjacent shoreline ~~shall~~must be determined, and disposition of the permit by the City ~~shall~~must reflect such determination.
3. Design and construction of all piers and docks (and floats) are required to mitigate for impacts to ecological processes and functions.
4. The design, location, and construction of docks, floats, and piers, as well as their subsequent use and operation, ~~shall~~must:
 - a. Minimize adverse effects on fish, shellfish, wildlife, water quality, and geohydraulic processes. Methods include, but are not limited to: limiting the footprint of the structure to that which is necessary to serve the intended water-dependent use and minimizing the use of materials hazardous to the environment.
 - b. Be capable of withstanding expected environmental conditions.
 - c. Minimize hazards to users.
 - d. Minimize interference with adjacent water uses and navigation.
5. All docks, piers and floats ~~shall~~must adhere to the following design standards:
 - a. Railings, if provided, ~~shall~~must be of clear or open framework design and conform to the Building Code where required.

- b. Utility service on docks and piers ~~shall~~must be placed on or under the deck. Overhead utility service is prohibited. Floodlighting ~~shall~~must be shielded to prevent unnecessary glare.
 - c. Appropriate marking ~~shall~~must be provided as necessary to avoid hazardous conditions for water surface users.
 - d. Piers, docks and floats ~~shall~~must be constructed of materials that comply with requirements of federal and state regulations. Treated wood materials may be utilized on pilings in repair projects for timber structures, provided the BMPs for the use of Treated Wood in Aquatic and Sensitive Environments, Western Wood Preservers Institute/Wood Preservation Canada/Southern Pressure Treaters' Association/Timer Piling Council, are specified and met. The conditions found in *An Agreement Concerning the Use of Treated Wood in Aquatic Areas* between Ecology and Department of State Fish & Wildlife dated August, 1995, also fulfill this requirement. However, use of treated wood should be minimized wherever practicable.
6. New piers and docks ~~shall~~will be allowed only for water-dependent uses or public access.
 7. Water-related and water-enjoyment uses may be allowed as part of a mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the minimum size requirement needed to meet the water-dependent use is not violated.
 8. Upland boathouses ~~shall~~must meet the setbacks required for non-water-dependent structures in the applicable shoreline designation.
 9. Docks, piers and floats ~~shall~~must not extend beyond the inner harbor line, unless approved by WDNR.
 10. Piers and docks may be restricted in areas of substantial littoral drift or significant historic/scenic values. In these areas open piling or floating structures may be required.
 11. Pier and dock construction ~~shall~~must be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use. For piers, docks and floats not associated with a single-family residence (including joint-use dock shared by two residences), the applicant must demonstrate that there is a specific need for the new or expanded pier, dock or float. Dimensional requirements for the structure will be based upon that need and the general criteria included in this section.
 12. When permitted, new residential development of more than two dwellings is required to provide joint use or community docks, rather than individual docks.
 13. The following requirements apply to new, expansion, and replacement piers, docks and floats associated with a single-family residence.
 - a. Pier width (single use): 6 feet or less
 - b. Pier grating: Grating of the full pier surface area is required on piers wider than 4 feet.
 - c. Pier width (joint use): 8 feet or less.
 - d. Floating dock dimensions: For a single-use residential structure, float width may not exceed 8 feet and float length may not exceed 30 feet. For a shared joint-use residential structure, float width may not exceed 8 feet and float length may not exceed 60 feet.

- e. ~~d~~Floating dock grating: Floats 6 feet wide or less are required to contain at least 30% functional grating. Floats wider than 6 feet are required to contain at least 50% functional grating.
- f. ~~e~~Floating dock orientation: The float must be installed in a north-south orientation to the maximum extent practicable.

14. ~~Repair– The following actions will be considered minor repairs for single-family residential use and are permitted, consistent with all other applicable codes and regulations. If cumulative repairs of an existing pier or dock over three years would make a proposed repair exceed the threshold established below, the repair proposal must meet the standards for a new pier or dock.~~

- a. ~~Replacing decking with grated decking;~~
- b. ~~Replacing decking substructure, including floats;~~
- c. ~~Pile replacement.~~
 - i. ~~Replacing less than 50% of existing piles supporting a fixed-pile pier. All such pile replacements must use steel piles.~~
 - ii. ~~Replacing piling associated with a floating dock. All pile replacements must use steel piles.~~
 - iii. ~~Replacing creosote piles with steel piles.~~

~~a. Repair proposals which replace only decking or decking substructure and less than 50 percent of the existing piles subsections shall will be considered minor repairs and are permitted, consistent with all other applicable codes and regulations. If cumulative repairs of an existing pier or dock over three years would make a proposed repair exceed the threshold established above, the repair proposal shall must be reviewed as a new pier or dock.~~

Commented [AC78]: Gap Analysis: Table 5-1 #6

15. ~~Existing legal non-conforming floating docks for single family residences are allowed to retain their present configuration for repair proposals meeting AMC 19.72.360(A)(14), so long as the following are met:~~

- a. ~~Piers and/or gangways connecting to floats must be a maximum of 4-feet in width for the first 30-feet waterward of the OHWM (nearshore area);~~
- b. ~~The gangway connected to the floating dock must be composed of grated decking;~~
- c. ~~Proof of WDNR aquatic use authorization will be required for piers and docks within public aquatic areas.~~

~~14.16.~~ New docks, piers, and floats associated with single-family residences along Cap Sante ~~shall will~~ be encouraged to use joint-use structures serving at least two but no more than four waterfront lots.

19.72.635 – Dredging and Dredge Spoil Disposal

A. Introduction

Dredging is the removal of material from the bottom of a stream, river, lake, bay or other water body. The purposes of dredging might include: deepening a navigational channel, berth, or basin;

streambed maintenance; use of dredged material for fill or habitat enhancement (effective reuse); and removal of contaminated sediments.

B. Development Regulations:

1. Applications for dredging operations (non-maintenance) ~~shall~~must include the following information:
 - a. Location, depth, width, and total volume of material to be dredged;
 - b. Projected frequency and quantity of maintenance dredging;
 - c. Information on stability of bedlands adjacent to the proposed dredge area;
 - d. Timing and method of dredging and dredged material disposal;
 - e. Dredged material disposal area (non – PSDDA site): location, size, capacity; methods of stabilization; hydrology of site;
 - f. Dredged materials; existing biological communities or resources in areas to be dredged, and the physical, chemical, and biological makeup of the dredged materials;
 - g. Hydraulic analysis, including tidal flows and potential impacts on ecological functions; and
 - h. Description of conformance with the no net loss standard for ecological processes and functions, including impact avoidance and minimization measures consistent with mitigation sequencing principles, and a description of any necessary mitigation.
2. Dredging ~~shall~~will be permitted for the following purposes, dredging for other purposes is prohibited:
 - a. To improve water quality or aquatic habitat;
 - b. To establish, expand, or relocate or reconfigure navigation channels and basins where necessary for assuring safe and efficient accommodation of existing or proposed navigational uses, such as marinas and port/water-dependent industrial development, and then only when significant ecological impacts are minimized and when mitigation is provided.
 - c. To maintain previously dredged and/or existing authorized location, depth, and width of established navigation channels and basins.
 - d. To mitigate conditions that could endanger public safety;
 - e. To obtain fill material only when the fill material is necessary for restoration of ecological functions and only when the fill is placed waterward of the ordinary high water mark; and
 - f. To create or improve public recreational opportunities.
3. Proposals for dredging and dredge spoil disposal, when permitted, ~~shall~~must:
 - a. Be kept to the minimum necessary to accommodate the proposed use.
 - b. Include all feasible mitigating measures to protect habitats and to minimize adverse impacts such as turbidity, release of nutrients, heavy metals, sulfides, organic materials, or toxic substances, depletion of oxygen, disruption of food chains, loss of benthic productivity, and disturbance of fish runs and important localized biological communities;

- c. Be scheduled so as to not materially interfere with the migratory movements of anadromous fish;
 - d. Utilize techniques that cause minimum dispersal and broadcast of bottom material; hydraulic dredging ~~shall~~must be used wherever feasible in preference to agitation dredging;
 - e. Not interfere with geohydraulic processes;
 - f. Be found, through analysis by qualified personnel, to be minimally or nonpolluting; and
 - g. Meet all requirements of applicable regulatory agencies.
4. New development ~~shall~~must be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

19.72.640 – Fills

A. Development Regulations

- 1. Fill for water-dependent uses and for public use ~~shall~~will be given priority.
- 2. Fill ~~shall~~must be permitted only when in conjunction with a proposal or activity otherwise permitted under the SMP.
- 3. Fill waterward of the ordinary high water mark is permitted by Shoreline Conditional Use Permit only when necessary to accommodate water-dependent uses, and for maintenance and repair of existing structures; expansion or alternation of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible; a transportation facility, utility, or navigational structure with no feasible alternative; cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan; disposal of dredged material considered suitable under and conducted in accordance with the Dredged Material Management Program of the Department of Natural Resources; mitigation or compensation actions and ecological restoration including beach nourishment or enhancement projects when significant impacts can be mitigated; and public access.
- 4. Projects ~~shall~~must be located and designed to minimize the area of fill necessary to accommodate the use.
- 5. Applications for fill ~~shall~~must address impacts to wetlands and streams; aquatic habitats; flooding; sediment transport; navigation, and public access. The following information may be required: physical and biological characteristics of the fill site, source and quality of fill material, grading plan showing the site, adjacent properties and waters, method of placement and compaction, type of proposed surfacing and runoff control, method of erosion control and stabilization, and proposed use of the fill area. Fill that will result in significant adverse impacts that cannot be mitigated is prohibited.
- 6. Fill ~~shall~~will be provided with some means for erosion control and/or shoreline stabilization consistent with the policies and regulations of ~~Section 9.11~~AMC 19.72.660, *Shoreline Stabilization Measures and Flood Protection Works*.
- 7. Fill material ~~shall~~will be sand, gravel, soil, rock, or similar material. Clean dredge material from a permitted dredging operation ~~shall~~will be permitted except for capping project(s) approved for clean-up under applicable federal and state regulatory programs.

8. Excavation of beach material for the primary purpose of obtaining fill material is prohibited. When practical and where it would not result in significant adverse impacts, excess beach material from construction of utilities or other allowed improvements ~~shall~~must be used for beach enhancement and/or environmental restoration projects, rather than fill.
9. Fills ~~shall~~must be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes.

19.72.645 – Jetties and Groins

A. Development Regulations

1. Jetties and groins are only allowed waterward of the ordinary high water mark for water-dependent uses, public access, shoreline stabilization, or other specific public purpose. Except for structures installed to protect or restore ecological functions, jetties and groins require a Shoreline Conditional Use Permit.
2. New residential groins are prohibited in the marine environment at locations that will alter longshore drift, and are only allowed when demonstrated to be necessary for shoreline stabilization.
3. New jetties and groins are prohibited in areas containing critical fish and wildlife habitats and ~~shall~~must not be located on shorelines where valuable geohydraulic or biological processes are sensitive to alteration or development such as feeder bluffs, marshes, wetlands and accretion shoreforms such as spits, hooks, bars, or barrier beaches.
4. New jetty or groin proposals must incorporate cumulative effects analysis to determine how the project may affect adjacent beaches updrift and downdrift of the site. Cumulative effects analysis must be evaluated by utilizing expertise in several different fields of study (e.g., geologists, marine biologists, hydrologists). The assessment must be site-specific and scientifically rigorous to fully document the need for the jetty or groin.
5. Repair or replacement of existing jetties and groins is allowed, provided:
 - a. A licensed engineering geologist with experience evaluating projects in marine areas determines that removing the structure will cause more damage to the beach than letting it remain, or, if is determined that significant impacts will occur to life or property if the groin is removed. Typical beach erosion, i.e., erosion rates occurring along adjacent beaches near the property, will not be considered a significant impact.
 - b. The replacement structure is designed in such a manner to allow uninhibited passage of longshore sediment movement.
 - c. The footprint on beach and bed areas is minimized to the greatest extent possible.
6. All projects must utilize standard mitigation sequencing techniques to avoid and minimize impacts, and any impacts must be fully mitigated. Mitigation measures must incorporate principles of landscape connectivity and consider the impacts to ecosystem-wide processes and ecological functions as they may extend outside of the project boundaries.

19.72.650 – Mooring Buoys

A. Introduction

Mooring buoys are anchored devices in waterbodies used for the mooring of watercraft. If 12 or

more buoys are proposed, the proposal must also comply with policies and regulations under Section 8.7 "Marinas," above.

B. Development Regulations

1. Applications for public mooring buoys ~~shall~~must include an enforcement and management plan that describes rules and regulations for public use.
2. Buoys may only be installed after the Administrator issues a Letter of Exemption or shoreline permit PROVIDED that the buoys meet all applicable requirements for a shoreline exemption or permit.
3. Mooring buoys ~~shall~~must comply with the following design standards:
 - a. Land based retrieval lines from mooring buoys ~~shall~~will be prohibited.
 - b. Buoys must float at least 12" above the water and be a light or bright color.
 - c. Mooring buoys ~~shall~~will be located no closer than 100 feet from navigation channels, another mooring buoy, dock, pier, float, or other fixed navigational obstruction, unless there is a written agreement allowing for the encroachment with the parties affected, including the subtidal property owner.
 - d. Buoys ~~shall~~must be marked with the responsible agency's name, address, and telephone number. [WDFW is an additional agency that can provide information to limit the impact of buoys.](#)
 - e. Buoys ~~shall~~must comply with the requirements of all applicable regulatory agencies (e.g., WAC 332-30-148).
 - f. Helical anchors or other designs that minimize the footprint on the seabed are to be used to the greatest extent practicable.
4. Mooring buoys ~~shall~~must be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and unnecessary interference with the right of adjacent property owners, as well as adjacent shoreline or water uses. To this end, applications for such facilities must demonstrate conformance with the following criteria. The proposal:
 - a. Is located with regard to favorable conditions related to wind, current, bathymetrics and, for overnight moorage facilities, adequate flushing action.
 - b. Complies with all federal, state, regional, and local requirements regarding water quality including, but not limited to, Department of Health Standards and environmental policies and regulations contained in ~~Chapter 6~~[AMC 19.72.410-460](#), *Environmental Protection General Regulations*.
 - c. Provides for adequate upland support facilities (e.g., restrooms, dumpsters, etc.).
 - d. Does not significantly interfere with navigation.
 - e. Demonstrates that the buoy system proposed is adequate to withstand the maximum expected physical stress that the environment and moored craft will place on the buoy.
 - f. Demonstrates compliance with mitigation sequencing techniques. When impacts cannot be avoided, impacts must be mitigated to assure no net loss of ecological function necessary to sustain shoreline resources.

Commented [AC79]: Per WDFW public comment.

5. Extended moorage (longer than 305 days), regardless of method, on waters of the state except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public are mitigated is prohibited.

19.72.655 – Shoreline Habitat and Natural Systems Enhancement Projects

A. Introduction

Shoreline habitat and natural systems enhancement and restoration projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. Mitigation for project impacts is not necessarily included in this section.

B. Regulations

1. Restoration and enhancement ~~shall~~must be carried out in accordance with an approved shoreline restoration plan.
2. All shoreline restoration and enhancement projects ~~shall~~must protect the integrity of adjacent natural resources, including aquatic habitats and water quality.
3. Long-term maintenance and monitoring ~~shall~~must be included in restoration or enhancement proposals.
4. Shoreline restoration and enhancement may be allowed if the project proponent demonstrates that no significant change to sediment transport will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.
5. Shoreline restoration and enhancement projects ~~shall~~must use be designed using scientific and technical information, and implemented using best management practices.
6. Shoreline restoration and enhancement ~~shall~~must not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.
7. Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided the project's purpose or consequence is the restoration of the natural character and ecological functions of the shoreline.
- ~~7.8. The City may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.~~

Commented [GL80]: Gap Analysis: Table 2-1 2009a

19.72.660 – Shoreline Stabilization Measures and Flood Protection Works

A. Introduction

Shore stabilization works include actions taken to stabilize the shoreline, addressing erosion impacts to property and improvements caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods.

Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, and/or planning and regulatory measures to avoid the need for structural stabilization.

Structural methods can be “hard” or “soft”. Hard structural stabilization measures refer to those

with solid, hard surfaces, such as concrete bulkheads. These are static structures traditionally constructed of rock, concrete, wood, metal, or other materials that deflect, rather than absorb, wave energy. Soft structural measures rely on softer materials, such as vegetation, drift logs, and gravel. They are intended to absorb wave energy, mimicking the function of a natural beach. Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. Structural shoreline stabilization methods also often result in vegetation removal and damage to near-shore habitat and shoreline corridors. The following methods of shoreline stabilization are organized from “soft” to “hard”. The use of “soft” methods is the preferred “best practices” choice (if non-structural methods cannot be used or are insufficient) when considering shoreline stabilization measures.

"Soft"

Vegetation enhancement;
Upland drainage control;
Bioengineering/biotechnical measures;
Beach enhancement;
Anchor trees; [dynamic revetment](#) and
Gravel enhancement.

Commented [AC81]: WDFW public comment

"Hard"

Rock revetments;
Gabions;
Groins;
Retaining walls and bluff walls;
Bulkheads; and
Seawalls.

What constitutes normal repair and maintenance? As applied to shoreline stabilization, "normal repair" and "normal maintenance" include the patching, sealing, or refinishing of existing structures and the replenishment of sand or other material that has been washed away if part of a previous authorized activity. Normal maintenance and normal repair are limited to those actions that are typically done on a periodic basis. Construction that causes significant ecological impact is not considered normal maintenance and repair. (See Section 2.4 of this SMP for the definition of “normal maintenance or repair”.)

What constitutes replacement? As applied to shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function when an existing structure can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures are considered new structures under this Master Program.

In addition, repairs that exceed a certain threshold are also effectively “replacement,” providing a meaningful opportunity for the project applicant to consider and implement softer solutions to an existing hard structural stabilization. The following are thresholds for considering a repair to be effectively replacement: 1) when any repair is being conducted along more than 50 percent of the

shoreline stabilization on the subject property, or 2) when repair is being conducted along more than 25 feet of shoreline stabilization when that repair work includes removal and replacement of the stabilization measure's foundation material. These repairs may still be processed as Shoreline Exemptions if the relevant exemption criteria are met; however, the replacement provisions of these regulations will apply.

What is required for additions to existing shoreline stabilization? Additions to or increases in size of existing shoreline stabilization measures ~~shall~~will be considered new structures.

Is there an exception for protecting a home? Pursuant to the Shoreline Management Act (RCW 90.58.100(6)), measures to protect single-family residences occupied prior to January 1, 1992, are exempt from the requirement to obtain a shoreline substantial development permit. However, a statement of exemption must be obtained from the City before constructing, adding to or substantially modifying these structures. The City may issue an exemption upon a finding that the structure is designed to minimize harm to the shoreline natural environment and that, to the extent feasible, the structure complies with the policies, prohibitions, and development standards of this Master Program. Mitigation will be required to meet the no net loss standard.

The following policies and regulations apply to all actions and developments that modify the shoreline for the purposes of preventing shore erosion or flooding.

B. Development Regulations

1. New development, including the subdivision of land, ~~shall~~will not create lots which require future shoreline stabilization to the extent feasible. If necessary, a geotechnical report ~~shall~~will be required.
2. New development near steep slopes or bluffs ~~shall~~must be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure as demonstrated by a geotechnical analysis.
3. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas ~~shall~~will not be allowed.
4. Structural stabilization methods ~~shall~~will be permitted when necessary for reconfiguration of the shoreline for (i) mitigation or enhancement purposes, or (ii) if determined to be appropriate based on the criteria of this section. In all other cases, structural stabilization methods ~~shall~~will only be allowed when all of the following criteria are met:
 - a. Relocation of existing structures, or implementation of nonstructural measures, such as placing the development even farther from the shoreline, planting and or retaining vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - b. Structural stabilization has been demonstrated, through a coastal engineer or other qualified geotechnical report, to be necessary to support or protect a legally established, inhabited structure or ongoing shoreline use that is in danger of loss or substantial damage or when necessary for reconfiguration of the shoreline for mitigation or enhancement.
 - c. The erosion is not being caused by upland conditions on the subject property, such as the loss of vegetation and drainage;
 - d. The shoreline stabilization measure will mitigate adverse impacts to the extent feasible.
 - e. Except for those uses that are water-dependent or when necessary to protect a single-family residence, uses ~~shall~~will not be allowed to have hard structural stabilization unless a Conditional Use Permit is obtained. See Conditional Use Permit requirements in Section

3.I and WAC 173-26-201(3)(d)(iii). Bioengineered or soft structural stabilization is permitted.

5. As appropriate to the individual proposal, the City ~~shall~~will require and utilize the following information during its review of shoreline stabilization proposals:
 - a. Purpose of the project;
 - b. Documentation (including photos) of existing (pre-construction) shoreline characteristics.
 - c. Description of physical, geological, and/or soil characteristics of the area including existing and proposed slope profiles and location of ordinary high water mark;
 - d. Hydraulic characteristics of the water body within one-half (0.5) mile on each side of the proposed project;
 - e. Existing shoreline stabilization and flood protection devices within one-half (0.5) mile on each side of the proposed project;
 - f. Biological characteristics of the area including vegetation, fish and wildlife resources, and suitability of site to support forage fish spawning;
 - g. Construction materials including size, shape, quantity, plant types, and soil preparations;
 - h. Construction methods and timing;
 - i. Predicted impact upon area shore and hydraulic processes, ecological functions, public access, adjacent properties, and shoreline and water uses;
 - j. Evaluation to determine if alternative non-structural techniques are feasible;
 - k. Monitoring and adaptive management may be required to determine if the structure is properly functioning;
 - l. Description of measures incorporated into the design to address aesthetics and public access; and
 - m. Evaluation of the cumulative effects of "hard" stabilization methods within a drift cell ~~shall~~must be determined by a Washington State licensed civil engineer with a specialty in coastal engineering or a qualified Washington State licensed geologist with a specialty in coastal geology, and a qualified marine habitat biologist.
 - n. Geotechnical reports ~~shall~~will include estimates of the rate of erosion and urgency (damage within 3 years) and evaluate alternative solutions.
6. New development, including creation of new parcels, that would require future shoreline stabilization during the life of the structure is prohibited except where no alternative locations are available and no net loss of ecological functions will result as demonstrated through a geotechnical analysis.
7. Shoreline stabilization works, including revetments and bulkheads, ~~shall~~must be located, designed and constructed in such a manner that will:
 - a. Minimize alterations of the natural shoreline and shoreline processes including sediment transport.
 - b. Minimize damage to ecological functions including wildlife, fish and shellfish habitats.

- c. Provide for the long term multiple use of shoreline resources and public access to public shorelines. In the design of publicly financed or subsidized works, consideration ~~shall~~will be given to providing pedestrian access to shorelines for low intensity outdoor recreation.
 - d. The shoreline defense structure ~~shall~~will mitigate adverse impacts to the extent feasible, blend with the surroundings, and not distract from the aesthetic qualities of the shoreline.
 - e. Achieve the policy of no net loss of ecological functions necessary to sustain shoreline resources.
8. Use of scrap building materials, asphalt from street work, or any discarded materials, equipment or appliances for the stabilization of shorelines ~~shall~~will be prohibited.
9. Upon project completion, all temporarily disturbed shoreline areas ~~shall~~must be restored to as near pre-project configuration as possible and replanted with appropriate vegetation, with preference given to native plantings. All losses in nearshore/riparian vegetation or fish or wildlife habitat ~~shall~~will be mitigated at a ratio that would be equivalent to the time that it would take the vegetation to reach full maturity or the level of maturity prior to disturbance.
10. Hard Stabilization Methods (e.g., revetments, bulkheads)
- a. "Hard" stabilization methods are solid, static structures including rock revetments, gabions, concrete groins, retaining walls and bluff walls, bulkheads, and seawalls (definitions in ~~Chapter 15~~AMC 19.72.915). The two most common hard methods applied in Puget Sound are revetments and bulkheads.
 - b. A revetment is a sloped shoreline structure built to protect an existing eroding shoreline or newly placed fill against currents and wave action. Revetments are most commonly built of randomly placed boulders (riprap) but may also be built of sand cement bags, paving, or building blocks, gabions (rock filled wire baskets) or other systems and materials. The principal features of a revetment, regardless of type is a heavy armor layer, a filter layer, and toe protection.
 - c. Bulkheads are solid or open-pile walls usually constructed parallel to the shore whose primary purpose is to contain and prevent the loss of soil by erosion, wave, or current action. Bulkheads are used to protect marine bluffs by retaining soil at the toe of the slope or by protecting the toe of the bank from erosion and undercutting. Bulkheads are typically constructed of poured-in-place concrete, steel or aluminum sheet piling, wood, or wood and structural steel combinations.
11. Additional Regulations for "Hard" Stabilization Structures
- a. Proposals for "hard" stabilization structures must first demonstrate that use of natural materials and processes and non-structural solutions, including relocation or reconstruction of existing structures, to bank stabilization are unworkable. Then, evaluate the cumulative effect of allowing "hard" stabilization methods along the shoreline prior to permitting new "hard" structures. If it is determined that the cumulative effect would have a net loss of shoreline ecological functions, then exemptions and permits ~~shall~~will not be granted.
 - b. "Hard" stabilization structures may be allowed only when evidence is presented which conclusively demonstrates that at least one of the following conditions exist:
 - i. Erosion threatens a legally established use or existing building(s) on upland property: provided that all other alternative methods of shore protection have proven infeasible or insufficient.

- ii. Structural stabilization is necessary to the operation and location of a new, single-family home, or a water-dependent use consistent with this Master Program; provided that all other alternative methods of shore protection have proven infeasible or insufficient through a geotechnical report.
- iii. Structural stabilization is necessary as part of a habitat enhancement project.
- c. Bulkheads are to be permitted only where local physical conditions are suitable for such alterations. Factors to consider ~~shall~~will include, but are not limited to, foundation bearing materials and surface and subsurface drainage.

12. Siting and Design

- a. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.
- b. Unless found to be infeasible, bulkheads and revetments ~~shall~~must be located landward of the ordinary high water mark and follow the natural contours of the shoreline. In addition:
 - i. Where no other bulkheads are adjacent, the construction of a bulkhead ~~shall~~must be as close to the eroding bank as possible and in no case ~~shall~~will it be more than three (3) feet from the toe of the bank.
 - ii. A bulkhead for a permitted fill ~~shall~~must be located at the toe of the fill.
 - iii. Where permitted, a bulkhead must tie in no further waterward than flush with existing bulkheads on adjoining properties, except where the adjoining bulkheads extend waterward of the ordinary high water mark. In which case, the new bulkhead must meet standard requirements.
- c. Replacement bulkheads may be permitted if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves provided that:
 - i. The replacement structure is designed, located, sized, and constructed to assure no net loss of ecological functions.
 - ii. For residences, the replacement structure does not encroach waterward of the ordinary high water mark or existing structure and there are overriding safety or environmental concerns. In such cases, the replacement structure ~~shall~~will abut the existing shoreline stabilization structure. Minor encroachment may be granted for resurfacing of existing structures in conformance with Washington State Department of Fish & Wildlife regulations, replacement of existing structures protecting residences occupied prior to January 1, 1992, or for soft shoreline stabilization measures that provide restoration of ecological functions.
 - iii. The existing bulkhead structure is removed unless doing so is found to be detrimental to ecological functions or unreasonable.
 - iv. If a structure is placed waterward of the existing bulkhead or revetment, all impacts, including loss of beach habitat, must be fully mitigated.
- d. Bulkheads ~~shall~~must be sited and designed consistent with appropriate engineering principles. Professional geologic site studies or design may be required for any proposed bulkhead if the Shoreline Administrator determines sufficient uncertainties exist.

- e. Bulkheads ~~shall~~must be designed for the minimum dimensions necessary to adequately protect the development.
- f. Bulkheads and revetments ~~shall~~must be designed to permit the passage of surface or groundwater without causing ponding or saturation of retained soil/materials.
- g. Adequate toe protection ~~shall~~must be provided to ensure bulkhead stability.
- h. Materials used in bulkhead construction ~~shall~~must meet the following standards:
 - i. Bulkheads ~~shall~~must utilize stable, non-erodible, homogeneous materials such as concrete, wood, and rock that are consistent with the preservation and protection of the ecological habitat.
 - ii. Shore materials ~~shall~~will not be used for fill behind bulkheads, except clean spoil from a permitted dredge and fill operation or clean upland materials.
 - iii. If an armored revetment is employed the following design criteria ~~shall~~will be met:
 - i. The size and quantity of the material ~~shall~~must be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system;
 - ii. The toe reinforcement or protection must be adequate to prevent a collapse of the system from wave action; and
 - iii. Fish habitat components ~~shall~~must be considered in the design subject to Hydraulic Project Approval by the Washington Department of Fish and Wildlife.

13. Public Access Provisions

- a. When hard stabilization measures are required at a public access site, provision for safe access to the water ~~shall~~must be incorporated into bulkhead design wherever reasonable and practicable.
- b. Stairs or other permitted structures may be built into a hard stabilization structure, but ~~shall~~will not extend waterward of it.
- c. Prior to granting a permit for new shoreline stabilization (bulkheads, breakwaters, groins and jetties) the effect of such development on adjacent properties ~~shall~~will be determined and the decision of the City ~~shall~~must reflect such determination. Applications for such development must be accompanied by information showing configuration of the shoreline and consistency of bank materials for properties within 300 feet in both directions from the proposal. Mitigation of adverse effects may be required as an alternative to denial.
- d. Public access is required as part of any publicly financed shoreline erosion control measures.

Article 7. Enforcement and Penalties

19.72.710 – Enforcement

- A. The enforcement provisions of RCW 58.17 and WAC 173-27-240 through 173-27-310 ~~shall~~will apply.
- B. The Shoreline Administrator and/or a designated representative ~~shall~~will enforce all provisions of the Master Program. The Shoreline Management Act calls for a cooperative enforcement program

between local and state government. It provides for both civil and criminal penalties, orders to cease and desist, orders to take corrective action and permit rescission. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action, the benefits that accrue to the violator, and the cost of obtaining compliance may also be considered.

19.72.715 – Penalties

Any person found to have willfully engaged in activities on the City's shorelines in violation of the Shoreline Management Act of 1971 or in violation of the City's Shoreline Master Program, rules or regulations adopted pursuant thereto ~~shall~~will be subject to the penalty provisions of the AMC.

19.72.720 – Violations – Subsequent Development and Building Permits

No building permit or other development permit ~~shall~~will be issued for any parcel of land developed or divided in violation of this Master Program. All purchasers or transferees of property ~~shall~~will comply with provisions of the Act and this Master Program and each purchaser or transferee may recover damages from any person, firm, corporation, or agent selling, transferring, or leasing land in violation of the Act or this Master Program including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of the Act or this Master Program as well as costs of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser, transferee, or lessor, as an alternative to conforming their property to these requirements, may rescind the sale, transfer, or lease and recover costs of investigation, litigation and reasonable attorney's fees occasioned thereby from the violator.

19.72.725 – Public and Private Redress

- A. Any person subject to the regulatory program of the Master Program who violates any provision of the Master Program or the provisions of a Permit issued pursuant thereto ~~shall~~will be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation.
- B. The City Attorney may bring suit for damages under this section on behalf of the City. Nothing in this section precludes private persons from bringing suit for damages on their own behalf. If liability has been established for the cost of restoring an area affected by violation, the court ~~shall~~will make provisions to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the court, in its discretion, may award attorneys' fees and costs of the suit to the prevailing party.

19.72.730 – Fees for Permits Obtained After Development

- A. Triple fees for permits obtained after development. Permits obtained following, rather than prior to, the establishment of a development or use ~~shall~~will be three (3) times the normal amount. This provision is in addition to the enforcement measures contained in this ~~chapter~~Article and in the AMC.
- B. Delinquent permit penalties ~~shall~~must be paid in full prior to resuming the use or activity.

Article 8. Master Program – Review, Amendments and Adoption

19.72.810 – Master Program Review

This Master Program shall be periodically reviewed and adjustments ~~shall~~will be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process ~~shall~~will be consistent with WAC 173-26 requirements and ~~shall~~will include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

19.72.815 – Amendments to Master Program

- A. Any of the provisions of this Master Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Amendments or revision to the Master Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.
- B. Proposals for shoreline environment redesignation (i.e., amendments to the shoreline maps and descriptions), must demonstrate consistency with the criteria set forth in WAC 173-22-040.

19.72.820 – Severability

If any provisions of this Master Program, or its application to any person or legal entity or parcel of land or circumstances is held invalid, the remainder of the Master Program, or the application of the provisions to other persons or legal entities or parcels of land or circumstances, ~~shall~~must not be affected.

19.72.825 – Effective Date

This Master Program ~~shall~~will take effect on ~~October 4, 2010~~[date] and ~~shall~~will apply to new applications submitted on or after that date and to incomplete applications submitted prior to that date.

Commented [AC82]: Adoption date.

Article 9. Definitions

19.72.910 – General Information

For the purpose of this Master Program, certain terms and their derivations ~~shall~~will be construed as specified in this section. Some terms used in this Master Program may have a different definition and application under other City of Anacortes regulations. Words in the singular include the plural, and the plural, the singular. The words "~~shall~~must" and "will" are mandatory; the word "may" is permissive. Additional definitions applicable to this Master Program and adopted by reference herein, are found in RCW 90.58 and applicable sections of the Washington Administrative Code. The following definitions apply throughout this Program, unless otherwise indicated.

If a definition is not included here, the City ~~shall~~will rely on definitions found in applicable citations in the Revised Code of Washington (RCW), Washington Administrative Code (WAC), the Anacortes Municipal Code (AMC) specifically Chapters 19.12, Definitions and Interpretation, and 19.70, Critical Areas Regulations, Ordinance #3064, dated July 26, 2021, and finally a standard dictionary, in that order. In case of conflict with AMC, definitions within the RCW, WAC, and/or this Master Program ~~shall~~must prevail.

Commented [AC83]: Table 4-1 #7

19.72.915 – Definitions

A. [A Definitions.](#)

Abiotic Not Living.

~~Accessory Building – A subordinate building attached to or detached from the principal building and used for purposes customarily incidental to the use of the principal building. Accessory buildings include but are not limited to an automobile storage garage, playhouse, laundry room, garden shelter, hobby room and mechanical room.~~

~~Accessory Dwelling Unit – An accessory dwelling unit (ADU) is a habitable dwelling unit added to, created within, or detached from and on the same lot with a single family dwelling that provides basic requirements for living, sleeping, eating, cooking, and sanitation.~~

~~Accessory Use – A water oriented or non water oriented use that is demonstrably subordinate and incidental to a primary use and which functionally supports its activity.~~

Accretion The growth of a beach by the addition of material transported by wind and/or water. Included are such shoreforms as barrier beaches, points, spits, hooks and tombolos.

Act ~~means the Washington State Shoreline Management Act, Chapter 90.58 RCW. The Shoreline Management Act of 1971, as amended (Chapter 90.58 RCW).~~

Activity An occurrence associated with a use; the use of energy toward a specific action or pursuit. Examples of shoreline activities include but are not limited to fishing, swimming, boating, dredging, fish spawning, wildlife nesting, or discharging of materials.

~~Act means the Washington State Shoreline Management Act, Chapter 90.58 RCW~~

Adjacent Lands Lands adjacent to the shorelines of the state (outside of shoreline jurisdiction). The SMA directs local governments to develop land use controls (i.e., zoning, comprehensive planning) for such lands consistent with the policies of the SMA, related rules and the local shoreline master program (see Chapter 90.58.340 RCW).

Administrator The City Director of Planning, Community, and Economic Development or his/her designee, charged with the responsibility of administering the Anacortes Shoreline Master Program.

Advertising Any display of letters, numerals, characters, words, symbols, emblems, illustrations, objects or registered trademarks which serve to call to the attention of the public products, services, businesses, buildings, premises, events, candidates or ballot proportions. On-premise advertising is that which is actually located on the site of the business or service advertised.

Agricultural Activities Agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural

Commented [AC84]: Table 4-1 # 7 – Definitions removed already exist in Title 19

Commented [AC85]: Table 4-1 # 7 – Definitions removed already exist in Title 19

Commented [AC86]: Table 5-1 #2

Commented [AC87]: Table 5-1 #2

market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

Agriculture The cultivation of soil, production of crops, or the raising of livestock.

~~AKART An acronym for "all known, available, and reasonable methods of prevention, control, and treatment" (WAC 173-201A-020). AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution.~~

Alteration Any human-induced action that impacts the existing conditions of the area. Alteration includes but is not limited to:

1. Grading, filling, dredging, draining, channelizing, cutting, topping;
2. Clearing, relocating or removing vegetation;
3. Paving, construction, modifying for surface water management purposes;
4. Human activity that impacts the existing topography, vegetation, hydrology, or wildlife habitat.

Alteration does not include walking, passive recreation, or similar activities.

Amendment A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

Anadromous Fish Species, such as salmon, which are born in fresh water, spend a large part of their lives in the sea, and return to freshwater rivers and streams to procreate.

Applicable Master Program The Master Program approved or adopted by the Washington State Department of Ecology pursuant to RCW 90.58.090 or RCW 90.58.190.

Approval An official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the department for review and official action pursuant to these regulations; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program.

Appurtenance A structure or development that is necessarily connected to the function and enjoyment of a single-family residence or other use and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; and grading which does not exceed two hundred fifty (250) cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.

Aquaculture The culture or farming of food fish, shellfish, or other aquatic plants or animals,

including the incidental preparation of these products for human use. The term encompasses a wide variety of activities including hatching, seeding, planting, cultivating, feeding, raising, and harvesting of plants and animals, but does not encompass the wild harvest of geoduck.

Commented [AC88]: Table 2-1 2011b

Aquatic All water bodies, including marine waters, lakes, rivers, and streams and their respective water columns and underlying lands waterward of the ordinary high water mark..

Archaeology The systematic recovery by scientific methods of material evidence remaining from man's life and culture in past ages, and the detailed study of this evidence.

Associated Wetlands Those wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act (WAC 173-22-030(1)).

Average Grade Level The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure; In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

Commented [AC89]: Ecology comment, consistent with height definition under WAC 173-27-030(3)

Auxiliary A structure or use which is supplemental or supportive to the primary structure or use.

B. B Definitions.

Backshore The area wetted by storm tides but normally dry between the coastline and the high tide line. It may be a narrow gravel berm below a sea bluff or a broader complex of berms, marshes, meadows, or dunes landward of the high tide line.

Bar Similar to spits and hooks, though generally not attached to the mainland during periods of high water.

Barrier Beach An accretion shore form of sand and gravel that has been deposited by longshore drift, like storm barriers, in front of bluffs, bays, marshes and estuaries.

Bathymetry, Bathymetrics The measurement of water depth at various places in a body of water; also: the information derived from such measurements - **bathymetric**

Beach The zone of unconsolidated material that is moved by waves, wind and tidal currents, extending landward to the coastline.

Beach feeding A process by which beach material is deposited at one or several locations in the updrift portion of a driftcell. The material is then naturally transported by a wave's down drift to stabilize or restore eroding beaches or berms.

Benthic/Benthos Of or having to do with the bottom of oceans or seas. In biology, "benthos" meaning the organisms living on or in the bottom of oceans, lakes, or streams.

Berm A linear mound of sand or gravel that is placed parallel to the shore at or above the ordinary high water mark. This may be a natural or a manmade feature.

~~Best Management Practices (BMPs) - BMPs are methods of improving water quality that can~~

~~have a great effect when applied by numerous individuals. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater runoff and in receiving waters. The term "best management practices" is typically applied to nonpoint source pollution controls and is considered a subset of the AKART requirement.~~

Bioengineering The practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of bundles of stems, root systems, or other living plant material, soft gabions, fabric or other soil stabilization techniques, and limited rock toe protection where appropriate. Bioengineering projects often include fisheries habitat enhancement measures in project design (e.g., anchored logs, root wads, etc.). This use of bioengineering as a shoreline stabilization technique is seen as an alternative to riprap, concrete, and other structural solutions.

Biota The animals and plants that live in a particular location or region.

Biologist - Qualifications

Biotic Of or relating to life; *especially*: caused or produced by living beings.

Boat Launch or Ramp Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

Boat Lift A mechanical device that can hoist vessels out of the water for storage and place vessels into the water. These devices are usually located along a pier.

Boating Facilities Boating facilities include marinas, both backshore and foreshore, dry storage and wet-moorage types, covered moorage, boat launches, and marine travel lifts. Boating facility standards do not apply to docks serving four or fewer single-family residences.

Boathouse A structure designed for storage of vessels located over water or in upland areas, which is designed to surround or enclose the vessel. Boathouses should not be confused with "houseboats."

Bog A shallow water area that may be filled by sedimentation and the decaying of vegetation.

Breakwater An off-shore structure generally built parallel to the shore that may or may not be connected to land. Its primary purpose is to protect a harbor, moorage, or navigational activity from wave and wind action by creating a still-water area along the shore. A secondary purpose is to protect the shoreline from wave-caused erosion.

Buffer The zone contiguous to an environmentally sensitive critical area that is required for the continued maintenance, function, and/or structural stability of the critical area. Buffer widths vary depending on the relative quality and sensitivity of the area being protected. Unlike zoning setbacks, buffer areas are intended to be left undisturbed, or may need to be enhanced to support natural processes, functions and values. The critical functions of the riparian buffer (those associated with an aquatic system) include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, interception of sediments, overflow during high water event, protection from disturbance by humans and domestic animals, maintenance of a wild habitat, and room for variation of aquatic system boundaries over time due to hydrological or climatic effects. The critical functions of terrestrial buffers include protection of

slope stability, attenuation of surface water flows from stormwater runoff and precipitation, and erosion control.

(Also See “Setbacks”).

~~**Building** Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of any use or occupancy. (different but consistent with AMC)~~

Building Setback Line Unless otherwise indicated with this Master Program, the line which establishes the limits of all buildings, structures, and fencing along the shoreline. Setback lines are based upon land use patterns while setbacks associated with buffers are intended to protect critical areas (See “buffer”).

Building Height – see ~~Height~~ [Section 5.12 Shoreline Use and Modification Matrix and Development Standards](#).

Commented [AC90]: Table 4-1 #7

Bulkhead A solid or open-pile wall usually constructed parallel to the shore whose primary purpose is to contain and prevent the loss of soil by erosion, wave, or current action. Bulkheads are used to protect marine bluffs by retaining soil at the toe of the slope or by protecting the toe of the bank from erosion and undercutting. Bulkheads are typically constructed of poured-in-place concrete, steel or aluminum sheet piling, wood, or wood and structural steel combinations.

Bulkheads are normally lighter than a seawall and similar to structures termed “Revetments” defined below.

Buoy Buoys are floating devices anchored in a waterbody for navigational purposes or moorage. See also “Mooring Buoy.”

B.C. C Definitions.

Campground An outdoor area established for overnight accommodation of recreational user.

Channel An open conduit for water either naturally or artificially created, but does not include artificially created irrigation, return flow, or stock watering channels. See also “Stream”.

~~**City** The incorporated City of Anacortes, Washington.~~

Clearing The destruction or removal of vegetation, ground cover, shrubs and trees including, but not limited to, root material removal that affects the erosive potential of the soils on the site. This includes such activities as clear-cutting or selective harvest of trees, chipping of stumps and hauling off of shrubs, slash piles, etc.

Coastline The highest landward line of long-term marine water effect upon the land.

Covered Moorage Boat moorage, with or without walls, that has a roof to protect the vessel.

Commercial Commercial developments are those uses that are involved in wholesale and retail trade or business activities. Examples include but are not limited to hotels, motels, grocery stores, restaurants, shops, offices, and indoor recreation facilities.

~~Comprehensive Plan~~ ~~The document, including maps, adopted by the City Council that outlines the City's goals and policies relating to management of growth, and prepared in accordance with Ch. 36.70A RCW. The term also includes adopted sub area plans prepared in accordance with Ch. 36.70A RCW.~~

Conditional Use A use, development, or substantial development that is classified as a conditional use or is not classified within the applicable master program. Refer to WAC 173-27-030(4).

Conservancy An area with natural, cultural, or historical resources of exceptional value.

County Skagit County, Washington.

Creek A small stream; often a shallow or intermittent tributary to a river. Surface water run-off flowing in a natural or modified channel that is drawn by gravity to progressively lower levels and eventually to the sea.

Critical Areas For the purposes of this Master Program, "critical areas" include aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands. Under the GMA, critical areas are to be classified, designated and protected. In designating and protecting critical areas, the City ~~shall~~will use the best available science, consistent with RCW 36.70A.172.

Cumulative Impact The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

[C.D. D Definitions.](#)

Development A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any other project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any state of water level (RCW 90.58.030(3d)). "Development" does not include dismantling or removing structures if there is no other associated development or re-development. See also "Substantial Development."

Commented [AC91]: Table 2-1 2017b

Dock A dock or pier is a landing and moorage facility for watercraft that abuts the shoreline. This definition does not include recreational decks, storage facilities, or other appurtenances which may be associated with the dock or pier.

Downdrift The direction of movement of beach materials.

Dredge Spoil or Dredge Material The material removed by dredging.

Dredging The removal of earth, sand, gravel, silt, or debris from the bottom of a stream, river, lake, bay, or other water body and associated wetlands.

Drift cell A particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms

created by such drift.

Driftway The foreshore area that connects a feeder bluff and its accretion from where sand or gravel is deposited by net effect of wave action and longshore drifts.

Dwelling Any building or portion thereof designed or used primarily for residential occupancy, including single-family dwellings, duplexes, triplexes, fourplexes, and multifamily dwellings, and condominiums, but not including hotels or motels.

~~Dwelling, multifamily~~ ~~A building containing two or more dwelling units.~~

~~Dwelling, single family~~ ~~A dwelling designed for single family occupancy~~

E. E Definitions.

Ecological Functions "Ecological functions" or "shoreline functions" means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-201(2)(c).

The beneficial roles served by ecological functions include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, ground water recharge and discharge, erosion control, wave attenuation, protection from hazards, historical and archaeological and aesthetic value protection, educational opportunities, and recreation. These beneficial roles are not listed in order of priority. Functions can be used to help set targets (species composition, structure, etc.) for managed areas, including mitigation sites.

Economic Development A development that provides a service, produces a good, retails a commodity, or engages in any other use or activity for the purpose of making financial gain.

Ecosystem-wide processes The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

Emergency An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the Master Program. Emergency construction is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3eiii) and WAC 173-27-040(2d)). See also "Substantial Development".

Enhancement Alteration of an existing resource to improve or increase its characteristics and processes without degrading other existing functions. Enhancements are to be distinguished from resource creation or restoration projects.

Environmental Impacts The effects or consequences of actions on the natural and built environments. Environmental impacts include effects upon the elements of the environment listed in the State Environmental Policy Act (SEPA) (WAC 197-11-600 and WAC 197-11-444)

Environment(s) (Shoreline Environment(s)) Designations given specific shoreline areas based

on the existing development pattern, the biophysical capabilities and limitations, and the goals and aspirations of local citizenry, as part of a Master Program.

Erosion The group of natural processes including weathering, dissolution, abrasion, corrosion, and transporting by which earthy or rocky material is removed from any part of the earth's surface.

Esplanade A public walk or walkway.

Estuary That portion of a coastal stream influenced by the tide of marine waters into where it flows and where the seawater is diluted with fresh water derived from land drainage.

Exempt Development Certain specific developments as listed in WAC 173-27-040 and Chapter 90.58 RCW are exempt from the definition of substantial development and therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local master program. Conditional use and/or variance permits may also still be required even though the activity does not need a substantial development permit (RCW 90.58.030(3e)).

Extreme Low Tide The lowest line of the land reached by a receding tide.

F. Definitions.

Fair Market Value "Fair market value" of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development ~~shall~~will include the fair market value of any donated, contributed or found labor, equipment, or materials.

Feasible Pursuant to the Shoreline Guidelines (WAC 173-26), feasible means that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (b) The action provides a reasonable likelihood of achieving its intended purpose; and (c) The action does not physically preclude achieving the project's primary intended legal use. In cases where these guidelines require certain actions unless they are proven to be infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

Feeder Bluff A shore or sea bluff whose eroding material is transported by longshore drift and provides the building blocks and nourishment for spits, bars, hooks, and other accretion shore forms.

Fill The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

First Class Tidelands The shores of navigable tidal waters belonging to the state, lying within or in front of the corporate limits of any city, or within one mile of either side and between the line of ordinary high tide and the inner harbor line; and within two miles of the corporate limits on either side and between the line of ordinary high tide and the line of extreme low tide.

Float A floating structure, not connected to the shoreline, that is moored, anchored, or otherwise secured in the water.

Floating Home A floating structure that is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling.

Flood Control Any undertaking for the conveyance, control, and dispersal of floodwaters caused by abnormally high direct precipitation or stream overflow.

Floodplain A term synonymous with the hundred-year floodplain, meaning that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area ~~shall~~must be based upon flood ordinance regulation maps or a reasonable method that meets the objectives of the Shoreline Management Act.

Floodway The area, as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway ~~shall~~will not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state [\[RCW 90.58.030\(2\)\(b\)\]](#).

Commented [AC92]: Gap Analysis: Table 2-1 2007a

Forest Practices Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber; including but not limited to: road and trail construction; harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practice ~~shall~~will not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

I. Functions and Values (see “Ecological Functions”)

D.G. G Definitions.

Gabions Structures composed of masses of rocks, rubble, or masonry held tightly together usually by wire mesh so as to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.

Geomorphology The science dealing with the relief features of the earth and the processes influencing their formation.

Geotechnical report or geotechnical analysis A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports ~~shall~~will conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

GMA Growth Management Act – Washington State House Bill 2929 adopted in 1990 and amendments thereto. Codified largely within Chapter 36.70A RCW.

~~**Grading** The movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.~~

Grassy Swale A vegetated drainage channel that is designed to remove various pollutants from storm water runoff through biofiltration.

Groin A barrier-type structure extending from the backshore or stream bank into a water body. The purpose of a groin is to interrupt sediment movement along the shore. A groin is also referred to as a rock weir.

Guidelines [in context of the Shoreline Master Program Guidelines] Those standards adopted by the department to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards ~~shall~~must also provide criteria for local governments and the department in developing and amending master programs.

H. H Definitions.

Habitat The place or type of site where a plant or animal naturally or normally lives and grows.

Harbor Area The area of navigable tidal waters as determined in Section 1 of Article 15 of the Washington State constitution, which ~~shall~~must be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce.

Hearings Board The State Shorelines Hearings Board established by the Act.

Height: Is defined under SMP Section 5.12 Shoreline Use and Modification Matrix and Development Standards. ~~Height shall be measured from average grade level to the highest point of a structure not otherwise excepted from the height limits, where "average grade level" is: the average of the natural or existing topography of the portion of the lot, parcel or tract of real property which will be directly under the proposed building or structure; provided, that in the case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure. Additionally, "natural or existing topography" is: The topography of the lot, parcel or tract of~~

Commented [AC93]: Gap Analysis: Table 4-1 #7

~~real property immediately prior to any site preparation, grading, excavation, or filling.~~

~~No building or structure in the Shoreline Area (200 feet from OHWM) shall exceed the height limits indicated on Table 5.2, except:~~

- ~~1. Cranes, gantries, mobile conveyors and similar equipment necessary for the function of marinas, marine manufacturing, permitted commercial, industrial or port activities and servicing vehicles.~~
- ~~2. Flagpoles or masts, transmission towers, chimneys, smokestacks, aerials or stairwells, when part of a permitted use.~~
- ~~3. Belfries, monuments, spires or steeples, transmission towers, provided such structures shall be designed to minimize obstruction of views.~~
- ~~4. In non-residential zones, penthouses for elevator and other mechanical equipment and monitors for light and ventilation are permitted, when occupying less than 15% of the total roof area less than 5% of lot coverage and extending not more than 10 feet above roof level.~~
- ~~5. When considering allowance of structures to exceed the height limitations the Planning commission must consider:~~
 - ~~a. View obstruction;~~
 - ~~b. Alternate siting outside shoreline areas;~~
 - ~~c. Significance of alteration of existing skyline profile.~~
 - ~~d. The variance criteria in Chapter 15 of this SMP.~~

~~Temporary construction equipment is not used in calculating height.~~

~~For Personal Wireless Service Facilities/Emergency Communication Facilities, height means the vertical distance measured from the lowest pre-existing ground level within the footprint of the facility to the highest point on the facility, including but not limited to the antenna or antenna array.~~

Historic Having considerable importance or influence in history; historical.

Historic Overwater Structure Those overwater structures which are identified on the City's historic register.

HPA - Hydraulic Project Approval The permit issued by the Washington State Department of Fish and Wildlife pursuant to the State Hydraulic Code Chapter 77.55 RCW.

Hydric Soil Hydric soil means soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper soil horizon(s), thereby influencing the growth of plants.

Hydrophytes Plants capable of growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

I. I Definitions.

Impervious Surface means a non-vegetated surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or stormwater areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

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Industry The production, processing, manufacturing, or fabrication of goods or materials. Warehousing and storage of materials or production is considered part of the industrial process.

Inner Harbor Line A line located and established in navigable tidal waters between the line of ordinary high tide and the outer harbor line and constituting the inner boundary of the harbor area.

In-kind Replacement To replace wetlands, biota or other organisms with substitute flora or fauna whose characteristics closely match those destroyed, displaced, or degraded by an activity.

In-Stream Structures Structures waterward of the ordinary high water mark that either cause or have the potential to cause water impoundment or the diversion, obstruction, or modification of water flow.

J. J Definitions.

Jetty A structure generally perpendicular to the shore, extending through or past the intertidal zone. Jetties are built singly or in pairs at a harbor entrance or river mouth mainly to prevent accretion from littoral drift in an entrance channel, which may or may not be dredged. Jetties also serve to protect channels from storm waves or cross currents and to stabilize inlets through barrier beaches. On the Pacific Coast, most jetties are of rip-rapped, mound construction.

K. K Definitions. None.

L. L Definitions.

Lake A body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty (20) acres or greater in total area. A lake is bounded by the ordinary high water mark or, where a stream enters a lake, the extension of the elevation of the lake's ordinary high water mark within the stream (WAC 173-22-030(9)).

Landscaping ~~Vegetative ground cover including shrubs, trees, flower beds, grass, ivy and other similar plants and including tree bark and other materials which aid~~

~~vegetative growth and maintenance.~~

~~LID, Low-Impact Development—Low impact development is a stormwater management and land development strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic functions.~~

Littoral Drift The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

M. M Definitions.

Marina A facility that provides launching, storage, supplies, moorage, and other accessory services for five or more pleasure and/or commercial water craft.

Marine Pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.

Marine bluffs Slopes greater than 40 percent that exceed a vertical height of 10 feet within the marine shoreline jurisdiction.

Master Program The comprehensive use plan for a described area and the use regulations together with maps, diagrams, charts, or other descriptive material and text; a statement of desired goals and standards developed in accordance with the policies enunciated in RCW 90.58.020.

May The action is acceptable, provided it conforms to the provisions of these regulations.

Mining The removal of naturally occurring rock, sand, gravel, and minerals from the earth.

Mitigation or Mitigation Sequencing The process necessary to avoid, minimize or reduce, or compensate for the environmental impact(s) of a proposal (see WAC 197-11-768 and WAC 173-26-201(2.e)). Mitigation or mitigation sequencing means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations;
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
6. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Mixed-use Development Mixed-use projects are developments that combine water-dependent/water-related uses with water-enjoyment uses and/or non-water-oriented uses. Mixed-use developments can be a tool for increased water-dependent activities, civic revitalization, and public access to the shoreline. To encourage mixed-use projects that achieve a public benefit, special provisions can be included in a master program that offer a potential developer incentives or more latitude than normal master program requirements. In return, the developer's proposal must include elements that further the objectives of the Shoreline Management Act and benefit the public. Implicit in the concept of mixed-use provisions is that additional development incentives must be justified by increased and long-term public benefit resulting from the project and that the public benefit must relate to SMA objectives. Generally in mixed-use projects the water-oriented uses and non-revenue recreation uses are "subsidized" by the economic advantages of the other uses in the sense that the water-oriented uses could not be economically developed without support from viable non-water-oriented uses

Mixed Use Facility A mixed use facility is a structure or development that combines non-water-oriented uses such as transient accommodations, residential units, or retail with one or more water-oriented uses in a manner that takes advantage of a shoreline location and which, as a general characteristic of the use, provides shoreline recreational and aesthetic enjoyment for a substantial number of people. In order to meet the definition of a mixed use facility, the facility must be designed to protect views to the shoreline, must be open to the general public and must be devoted to the specific aspects of the use that foster shoreline enjoyment.

Moorage Any device or structure used to secure a vessel for temporary anchorage, but which is not attached to the vessels (such as a docks or buoys).

Moorage Piles Structural members that are driven into the lake bed or tide lands to serve as a stationary moorage point. They are typically used for moorage of small boats in the absence of, or instead of, a dock or pier. In some cases, moorage piles may be associated with a dock or pier.

Mooring Buoy A floating object anchored to the bottom of a water body that provides tie up capabilities for vessels.

Mooring Buoy Field The existence or establishment of 12 or more mooring buoys in a contiguous area.

Multiple-Use The combining of compatible uses within one development.

Must A mandate; the action is required.

[E.N. N Definitions.](#)

Native Plants or Native Vegetation Plant species that are indigenous to Fidalgo Island.

Natural A shoreline possessing unique or fragile features that are totally or essentially unaltered from their natural state or are relatively intolerant of human use other than for passive historical, cultural, scientific, recreational, archaeological, or educational activity.

Natural or Existing Topography The topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.

Navigable Waters Those waters lying waterward of and below the line of navigability on lakes not subject to tidal flow, or extreme low tide mark in navigable tidal waters, or the outer harbor line where harbor area has been created.

No Net Loss. No net loss of ecological function ~~shall~~will be measured based on the data submitted with a shoreline application, and SEPA checklist if applicable.

Nonconforming development or Nonconforming structure An existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.

Nonconforming lot A lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

~~**Non-conforming Use or Development** A shoreline use or structure or portion thereof which was lawfully constructed or established prior to the effective date of the Shoreline Management Act or local shoreline master program provision, or amendments, but no longer conforms to the policies and regulations of this Master Program.~~
Nonconforming use An existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.

Commented [AC95]: Gap Analysis: Table 2-1 2017g

Non-water-oriented Use A use that has little or no relationship to the shoreline and is not considered a priority use under the Shoreline Management Act. All uses which do not meet the definition of water-dependent, water-related, or water-enjoyment are classified as non-water-oriented uses.

Examples of non-water-oriented uses include professional offices, general retail or commercial uses, residential development, condominiums, and mini-storage facilities.

Normal Maintenance Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040(2b)). See also "Normal Repair".

Normal Protective Bulkhead A bulkhead, common to single-family residences, constructed at or near the ordinary high water mark to protect an existing single-family residence, and which sole purpose is for protecting land from erosion, not for the purpose of creating new land (WAC 173-27-040(2c)).

Normal Repair Activities that restore the character, size or scope of a project only to the previously authorized condition within a reasonable period after decay or partial destruction, excepting that repair involving total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment ~~shall~~will not be construed as normal repair (WAC 173-27-040(2b)) See also "Normal Maintenance".

Noxious Weed Any plant which is invasive, such as Himalayan blackberries, nettles, Scotch broom, Spartina, and listed on the state noxious weed list in Chapter 16-750 WAC.

~~F.O.~~ O Definitions.

Offshore The sloping subtidal area seaward from the low tideland.

Offshore Moorage Device An offshore device anchored or otherwise attached to the sea bottom used to moor water craft.

Off-site Compensation To compensate for lost or degraded wetlands or other shoreline environmental resources by creating or restoring these areas on lands other than the site on which the impacts were located

On-site Compensation To compensate for lost or degraded wetlands or other shoreline environmental resources by creating or restoring these areas at or adjacent to the site on which the impact were located.

Out-of-kind compensation To compensate for lost or degraded wetlands or other shoreline environmental resources by creating substitute habitat whose characteristics do not closely approximate those lost or degraded by a development activity.

One-hundred-year Flood The maximum flood expected to occur during a one-hundred-year period.

~~Open Space—A land area allowing view, use, or passage that is almost entirely unobstructed by buildings, paved areas, or other man-made structures.~~

Ordinary High Water Mark (often abbreviated OHWM) That mark on all lakes, streams, and tidal waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971 or as it may naturally change thereafter; or as it may change thereafter in accordance with permits issued by the local government or the Washington State Department of Ecology; provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining saltwater ~~shall~~will be the line of mean higher high tide, and the ordinary high water mark adjoining fresh water ~~shall~~will be the line of mean high water.

Outer Harbor Line A line located and established in navigable waters as provided in Section 1 of Article 15 of the Washington State Constitution, beyond which the state ~~shall~~will never sell or lease any rights whatsoever.

Over-water Structure Any device or structure projecting over the ordinary high water mark, including, but not limited to piers, docks, floats, and moorage or anchor buoys.

~~Parking Space or Parking Stall—Areas providing for the storage of motor vehicles, including vista parking facilities. Excepting however, that this definition shall not apply to vehicle holding areas necessary to support a publicly operated ferry system.~~

P. P Definitions.

Performance Standard Regulations, which include bulk and dimensional standards that are applied to the design and function of a development or use.

Permit (or Shoreline Permit) Any substantial development, variance or conditional use permit, or revision, or any combination thereof, authorized by the Act (WAC 173-27-030(13)).

~~Person—An individual, firm, partnership, corporation, association, organization, agency, or any non-federal entity however designated.~~

Pier A fixed, pile-supported structure in the water.

Pocket Beach In this Master Program, pocket beach refers to an isolated accretion beach bordered by shoreline modifications.

Point A low profile beach promontory, generally of triangular shape whose apex extends seaward.

Pollutant Any substance that has been or may be determined to cause or tend to cause injurious, corrupt, impure, or unclean conditions when discharged to surface water, air, ground, sanitary sewer system, or storm drainage system.

Port A center for water-borne commerce and traffic.

Practicable Alternative An alternative that is available and capable of being carried out after taking into consideration short-term and long-term cost, existing technology, options of project scale and phasing, and logistics in light of overall project purposes, and having less impacts to environmentally sensitive areas. It may include using an area not owned by the applicant that can reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed development.

Priority habitat A habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- Comparatively high fish or wildlife density;
- Comparatively high fish or wildlife species diversity;
- Fish spawning habitat;
- Important wildlife habitat;
- Important fish or wildlife seasonal range;
- Important fish or wildlife movement corridor;
- Rearing and foraging habitat;
- Important marine mammal haul-out;
- Refuge habitat;
- Limited availability;
- High vulnerability to habitat alteration;
- Unique or dependent species; or
- Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

Priority Species Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

(a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

(b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

(c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

(d) Criterion 4.

Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

Priority Use The Shoreline Management Act and this Master Program give preference to shoreline uses that are water-dependent or water-related, provide public access and recreational use of the shoreline, as well as other uses which provide an opportunity for substantial numbers of people to enjoy the shoreline and to single-family residences (See RCW 90.58.020)

Proposed, Threatened and Endangered (PTE) Species Those native species that are proposed to be listed or are listed in rule by the Washington State Department of Fish and Wildlife as threatened or endangered, or that are proposed to be listed as threatened or endangered or that are listed as threatened or endangered under the federal Endangered Species Act.

Public Access A means of physical approach to and along the shoreline available to the general public. This may also include visual approach.

Public Interest The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development. [WAC 173-27-030(14)]

Public Use Public use means to be made available daily to the general public on a first-come, first-served basis, and may not be leased to private parties on any more than a day use basis. (WAC 332-30-106(56))

R. [R. Definitions.](#)

RCW Revised Code of Washington.

Recreational Facilities Facilities such as parks, trails and pathways, campgrounds, and swim rafts that provide a means for relaxation, play, or amusement. For the purposes of this Master Program, recreational uses are divided into two categories:

1. Water-dependent (e.g., boating facilities, fishing pier, swim rafts) and
2. Non-water-dependent. Non water-dependent recreational uses are further divided into three subcategories based on their relative impact to the shoreline environment:
 - a. High Intensity recreational uses require substantial development/ land modification or large areas of fertilized lawn. Such uses may include but are not limited to camp grounds, sport courts (e.g., tennis/basketball), golf course, sport fields (e.g., ball park), aquatic center, skateboard park.
 - b. Moderate Intensity recreational uses are typified by formal parks for passive recreation (e.g., Washington and Cap Sane Parks) requiring some modification of natural conditions, limited paving and often including accessory structures (e.g., picnic shelters, restrooms, viewing galleries, gazebos, playground equipment.
 - c. Low intensity recreational uses are passive in nature (e.g., walking, photography, wildlife viewing) and require very minimal alteration of natural conditions. Such uses/modifications may include but are not limited to trails, vista points, wildlife viewing areas, picnic tables and benches.

Recycling Facilities Recycling facility means a facility for the collection and/or sorting and storage of recyclable materials generated from domestic or small business sources, such as bottles, cans, paper, cardboard, aluminum, and plastics. This definition does not include facilities for the processing of recyclable materials, which are classified as a manufacturing use. Recycling facilities are further divided into two categories:

1. Major recycling facilities include facilities primarily dedicated to the collection, sorting, or purchase and resale of recyclable materials.
2. Minor recycling facilities include bins or other temporary or permanent facilities for the collection of small quantities of recyclable materials to be sorted and/or processed elsewhere. A minor facility may be accessory to a primary use, such as a recycling bin at a grocery store parking lot.

Repair (See Normal Repair)

Residence A dwelling and those structures and developments within a contiguous ownership that are normal appurtenances. An appurtenance is necessarily connected to the use and enjoyment of a residence and is located landward of the perimeter of a wetland, and associated buffers, and landward of the ordinary high water mark. A normal appurtenance includes a garage, deck, driveway, utilities, fences, and grading that does not exceed 250 cubic yards.

Residential Development Residential development refers to one or more buildings, structures, lots, parcels, or portions of parcels that are used or intended to be used to provide a dwelling for human beings. Residential development includes single-family residences, duplexes, other detached dwellings, multifamily residences, apartments, townhouses, mobile home parks, group housing, condominiums, subdivisions, planned unit developments, and short subdivisions. Residential development also includes accessory uses and structures such as garages, sheds, tennis courts, swimming pools, driveways, parking areas, fences, cabanas, and saunas, but not guest cottages, when allowed by the underlying zoning. Residential development does not include hotels, motels, or camping facilities.

Restaurant An establishment where food and drink are prepared, served and consumed primarily within the principal building. Restaurants may qualify as a water-enjoyment use when located, designed and operated to assure the public's ability to interact with the shoreline. Water-enjoyment design elements may include the incorporation of outdoor seating areas that are compatible with shoreline public access. Drive-thru restaurants are not considered water-enjoyment uses and are prohibited in the shoreline designation.

Restore, "restoration" or "ecological restoration" The reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions (WAC 173-26-020(27)).

Restoration of ecological functions, above and beyond that which may be required as mitigation for project impacts, is considered a water-dependent use under this Master Program.

Retrieval Lines A system by which a float or other floating object is retrieved to a pier, dock, or shoreland.

Revegetation The planting of vegetation to cover any land areas that have been disturbed during

construction. This vegetation shall be maintained to insure its survival and ~~shall~~will be consistent with planting requirements of the Anacortes Landscaping Code.

Revetment A revetment is a sloped shoreline structure built to protect an existing eroding shoreline or newly placed fill against currents and wave action. Revetments are most commonly built of randomly placed boulders (riprap) but may also be built of sand cement bags, paving, or building blocks, gabions (rock filled wire baskets) or other systems and materials. The principal features of a revetment, regardless of type is a heavy armor layer, a filter layer, and toe protection. See also "bulkheads."

Riprap A layer, facing, or protective mound of stone placed on shoulders, slopes, or other such places to protect them from erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

Rock Weir A structure made of loose rock that is designed to control sediment movement, water flow, or both. A rock weir adjacent to a shoreline is typically formed by placing rock in a line outward from the shore, with the top of the rock embankment below the water level to restrict current movements parallel to the shore without completely blocking flow.

Runoff Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

S. [S Definitions.](#)

Sediment The fine-grained material deposited by water or wind.

SEPA See State Environmental Policy Act.

SEPA Checklist A checklist is required of some projects under SEPA to identify the probable significant adverse impacts on the quality of the environment. The checklist will also help to reduce or avoid impacts from a proposal, and help the responsible governmental agency decide whether a full environmental impact statement (EIS) is required (WAC 197-11-960).

Scientific, Cultural and Educational Facilities Those sites, structures, or facilities that provide unique insight into our natural and cultural heritage.

Sea wall A bulkhead, except its primary purpose is to artificially armor the shore from erosion by water waves and it may incidentally retain uplands or fills. Sea walls are usually more massive than bulkheads or revetments because they are designed to resist the full force of waves.

Second Class Shoreland Land bordering on the shore of a navigable lake or river not subject to tidal flow, between the line of ordinary high water and the line of navigability and within or in front of the corporate limits of any City or within two miles thereof upon either side.

Second Class Tideland Land over which the tide ebbs and flows outside and more than two miles from the corporate limits of any City from the line of ordinary high tide to the line of extreme low tide.

Setbacks A. "Setback (yard requirements)" means the distance between a building and its property lines. B. Shoreline Environment Setbacks – the distance between a building or use and the ordinary-high water-mark (OHWM) as established for each specific environmental designation

under ~~Chapter 5~~ [AMC 19.72.310-365](#) of this Master Program.

~~Shall—Indicates a mandate; the particular action must be done, unless a variance is secured or another appropriate exception applies.~~

Shore Defense Works Structures or modifications for the purpose of retarding shore erosion from waves or current action, protecting channels and harbors from wave action, encouraging deposition of beach materials, preventing stream bank overflow, and retaining uplands. They may consist of bulkheads, seawall, dikes, revetments, breakwaters, jetties, groins, or gabions. Defense works are commonly constructed from quarry rock (rip-rap), treated wood, concrete, steel, and sand and gravel.

Shoreland Areas or Shorelands Those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark, including all wetlands associated with the shoreline which are subject to the provisions of this chapter; the same to be designated as to location by the Washington Department of Ecology (see also RCW 90.58.030).

Shoreline Administrator See Administrator.

Shoreline areas and shoreline jurisdiction All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

Shoreline Environment(s) See Environment

Shoreline Management Act of 1971 A law passed by the Washington State Legislature in 1971 and ratified by the voters in 1972 (reference RCW 90.58).

Shoreline master program or master program The comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW ~~shall~~[will](#) be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, ~~shall~~[will](#) be considered a part of the county or city's development regulations.

Shoreline Modifications Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

Shoreline Permit A permit to conduct a development or use as defined by RCW 90.58 and this Master Program. A shoreline permit means any form of permission required under RCW 90.58 prior to undertaking activity on shorelines of the state, including substantial development, conditional use or variance permits.

Shoreline Setback Line Unless otherwise indicated within this Master Program, the line which establishes the limits of all buildings, structures and fencing along the shoreline. Setback lines are based upon land use patterns while setbacks associated with buffers are intended to protect critical areas (See "buffer areas").

Shoreline setbacks are measured horizontally in a line perpendicularly from the ordinary high water mark (OHWM) to the most waterward part of the structure.

Shorelines All the water area of Anacortes, including their associated wetlands, together with lands underlying them, except:

1. Shorelines of statewide significance.
2. Shorelines or segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments.
3. Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

Shorelines Hearings Board A state-level quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government on DOE approval of master programs, rules, regulations, guidelines or designations under the SMA. See RCW 90.58.170; 90.58.180; and WAC 173-27-220 and 173-27-290.

Shorelines of the State The total of all shorelines and shorelines of statewide significance.

Shorelines of Statewide Significance A shoreline of the state with respect to the City of Anacortes as identified as follows: Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent saltwaters north to the Canadian line and lying seaward from the line of extreme low tide. Padilla Bay, from March Point to William Point, is also identified as a specific estuarine area and is considered a Shoreline of Statewide Significance waterward from the ordinary high water mark and all associated shorelands.

Should A particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and these regulations, against taking the action.

~~Sign—Any visual communication device, structure, placard or fixture that uses color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. For the purpose of this chapter, a sign is not considered to be building or structural design, but is restricted solely to graphics, symbols or written copy that is meant to be used in the aforementioned way. However, a sign shall not include the following:~~

- ~~a. Official notices authorized by a court, public body or public officer.~~
- ~~b. Direction, warning, or information sign authorized by federal, state, or municipal authority.~~
- ~~c. The official flag, emblem, or insignia of a government, school or religious group or agency.~~
- ~~d. A memorial plaque or tablet, or cornerstones indicating the name of a building and date of construction, when cut or carved into any masonry surface or when made of bronze or other incombustible part of the building or structure. (See also “Advertising.”)~~

Significant vegetation removal The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. ~~Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.~~

Commented [AC96]: Gap Analysis: Table 5-1 #5

Single-family dwelling – see “Dwelling, single-family”

SMA See Shoreline Management Act.

Soil Bioengineering An applied science that combines structure, biological and ecological concepts to construct living structures that stabilizes the soil to control erosion, sedimentation and flooding using live plant materials as a main structural component.

Solid Waste Solid waste includes all putrescible and nonputrescible solid and semisolid wastes, including garbage, rubbish, ashes, industrial wastes, wood wastes and sort yard wastes associated with commercial logging activities, swill, demolition and construction wastes, abandoned vehicles and parts of vehicles, household appliances and other discarded commodities. Solid waste does not include sewage, dredge material or agricultural or other commercial logging wastes not specifically listed above.

State Environmental Policy Act, (SEPA) SEPA requires state agencies, local governments and other lead agencies to consider environmental impacts when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, EISs may be required to be prepared and public comments solicited.

State master program The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by the department.

Stream A body of running water; especially such a body moving over the earth's surface in a channel or bed, as a brook, rivulet, or river.

Structure A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner on, above, or below the surface of the ground or water, except for vessels.

Substantial Development Any development that:

1. The total cost or fair market value exceeds the amount specified in WAC 173-27-040(2)(a); or
2. Materially interferes with the normal public use of the water or shorelines of the state.

A list of developments not considered substantial development is provided in Section 2.4 of this Master Program. [Developments not required to obtain shoreline permits or local reviews can be found under Section 2.5, \(WAC 173-27-044\).](#)

Commented [AC97]: Gap Analysis: Table 2-1 2017c

Substantially degrade To cause significant ecological impact

[Substructure, pier](#) Relating to all the pier composite elements supporting the pier decking itself, excluding the pier pile.

Commented [AC98]: Gap Analysis: Table 5-1 #6.

Swamp A lowland region saturated with water.

[T. T Definitions.](#)

Temporary building or structure A building or structure not having or requiring permanent attachment to the ground or to other structures.

Temporary use A use established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

Top of Slope The top of slope is a distinct, topographical break in slope that separates slopes inclined at less than forty percent (40%) from slopes forty percent (40%) or steeper. When no distinct break exists, the top of slope is the upper most limits of the area where the ground surface drops ten (10) feet or more vertically within a horizontal distance of twenty-five (25) feet.

Toe of Slope The toe of slope is a distinct topographical break in slope that separates slopes inclined at less than forty percent (40%) from slopes forty percent (40%) or steeper. When no distinct break exists, the toe of slope of a steep slope is the lowermost limit of the area where the ground surface drops ten (10) feet or more vertically within a horizontal distance of twenty-five (25) feet.

Tombolo A causeway-like accretion spit connecting an offshore rock or island with the main shore.

Truck Maneuvering Area An area of a site used by trucks for turning and backing or for access to loading/unloading areas.

[U. U Definitions.](#)

Upland The area above and landward of the ordinary high water mark.

Use or Use Activity The purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained and ~~shall~~will include any manner of performance or operation of such activity with respect to the provision of this title. The definition of "use" also includes the definition of "development."

Utility A service or facility that produces, transmits, stores, processes, or disposes of electrical power, gas, water, sewage, communications, oil, and the like, Utilities have been categorized in this Master Program as primary, accessory, and personal wireless facilities:

1. Primary utilities are services and facilities that produce, transmit, carry, store, process or dispose of power, gas, water, sewage, communications (excepting wireless facilities, see below), oil and the like. For example: sewage treatment plants and outfalls, public high-tension utility lines, power generating or transfer stations, gas distribution lines and storage facilities.
2. Accessory utilities are small-scale distribution services directly serving a permitted shoreline use. For example, power, telephone, cable, communication antennas, water, sewer lines, including stormwater systems.
3. Personal wireless facilities meaning any unstaffed facility for the transmission and/or reception of personal wireless services. This can consist of an equipment shelter or cabinet, a support structure or existing structure used to achieve the necessary elevation, and the antenna or antenna array.

[V. V Definitions.](#)

Variance, Shoreline A means of granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program to a particular piece of property, which property, because of special circumstances is deprived of privileges commonly enjoyed by other properties in the same vicinity and environmental designation, and not a means to vary from the permitted uses of a shoreline.

Commented [AC99]: Gap Analysis: Table 4-1 #7

Vegetation Removal See “significant vegetation removal.”

Vegetation Stabilization Planting of water-loving land vegetation upon shoreline banks, slopes, or berms to retain soil and retard erosion from surface run-off; planting of aquatic vegetation offshore to reduce wave action and retain bottom materials; and utilizing temporary structures or netting to enable plants to establish in unstable areas.

Vessel Ship, boat, barge, or any other floating craft that is designed and used for navigation and does not interfere with the normal public use of the water.

W. W Definitions.

Waste Disposal Refuse composed of garbage, rubbish, ashes, dead animals, demolition wastes, automobile parts, and similar material.

Water-dependent Use A use or a portion of a use, which, as its primary characteristic, cannot exist in any other location than on the water because it is dependent on the water by the intrinsic nature of its operations.

Water-enjoyment Use A shoreline recreational use such as a park, pier, or other use that facilitates public access to the shoreline as a primary characteristic of the use; or, a use that provides for passive/active recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general character of the use and which, through location, design and operation assure the public's ability to enjoy the physical and/or aesthetic qualities of the shoreline.

In order to qualify as a water-enjoyment use, the use must be open to the public and most if not all of the shoreline oriented space within the project must be devoted to the specific aspects of the use that foster shoreline enjoyment.

Water-enjoyment uses may include, but are not limited to, shoreline parks, public access piers or other improvements (e.g., walkways or boardwalks) facilitating public access to the shorelines of the state or that foster the public's awareness and understanding of the shorelines of the state (e.g., shoreline or maritime-related museums, and scientific/ecological reserves).

Other uses, including mixed-use developments, may qualify as water-enjoyment uses if they include a mix of more than one of the general water-enjoyment uses designed to take advantage of a waterfront location, protect views of the water, enhance pedestrian traffic, and display and sell merchandise oriented to marine uses or other office and research functions contributing to marine activities. Examples may include those uses listed below:

1. Ecological and Scientific Reserves
2. Waterfront Parks
3. Beaches for Public Use

4. Aquariums Available to the Public
5. Museums - Marine Oriented or Natural History Museums
6. Restaurants providing substantial public access and/or public views to the water for non-paying customers and not necessarily limited to working hours of operation.

Water-oriented Use A use or a portion of a use which is either a water-dependent, water-related, or water-enjoyment use, or any combination thereof. All uses which do not meet the definition of water-dependent, water-related, or water-enjoyment are classified as non-water-oriented uses.

Water-related Use A use or portion of a use that is not intrinsically dependent on a waterfront location, but whose operation cannot occur economically without a shoreline location. Water-related uses contribute to the marine trades, maritime educational uses or maritime heritage uses or activities of a particular shoreline designation because of the following:

1. A functional requirement for a waterfront location, such as the arrival or shipment of materials by water (e.g., fish processors), or the ability to work on boats that are moored in a marina (e.g., sail lofts, riggers, boat repair) or;
2. The use provides a necessary service supportive of the water-dependent, water-related commercial activities and the proximity of the use to its customers and marine trades businesses makes its services less expensive and more convenient. Examples include marine chandleries or marine hardware stores, boat shops, marine electrical services, marine metal work or fabrication, or manufacturers of boat parts or supplies that are necessary for a viable marine trades economy; or
3. The use provides marine-related services necessary to serve in-water marinas and on-land boatyards that provide a cluster of marine-related businesses that derive an economic benefit from close proximity to one another. Examples include boat dealers and brokers, marine surveyors and marine architects, moorage offices, shower and laundromat facilities for moorage guests, and specialized professional services to support the marine trades; or
4. The use provides maritime educational or maritime heritage activities that strengthen the City's marine trades businesses by providing a cluster of activities that support water-dependent uses, water-related uses and marine-related services. Examples include yacht or sail club facilities, diving shops with classes and/or rentals, recreational services that promote on-the-water activities (e.g., kayak rentals) and interpretive and educational facilities that provide demonstration areas or classrooms for marine trades or marine-related ecology or educational workshops, seminars or classes (e.g., vocational boat schools or maritime educational centers).

Watershed Restoration Plan A plan, developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Natural Resources, the Department of Transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a City, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

Wetlands or Wetland Areas Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally

include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands if permitted by the City (RCW 36.70A.030(21)).

Wireless Facilities – See “Utility”

